

INDIAN LABOUR CODE

(CENTRAL)

S. N. BOSE

With a Foreword by

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It gives me great pleasure to write a Foreword to this publication which endeavours to place before the public the laws in force in India dealing with labour.

The progress of labour legislation in recent years has been such as to make it difficult for the public or even the administrative machinery to keep pace with it. This has often been used as an argument for a less vigorous policy in regard to labour. But can we afford to go slow when we are so far behind? The consciousness of Indian labour has been awakened. What could be endured even two or three years ago is no longer bearable. In a Free India no Government can overlook the legitimate aspirations of labour. The pace of labour legislation cannot be slackened so long as grossly

fair or unsatisfactory conditions of employment continue to exist. For this reason private enterprise in expounding and publicising labour laws is to be welcomed. I hope the author will be able to keep this publication up-to-date so that it may be of abiding interest to all connected with labour administration or the consideration of the day-to-day problems of labour.

Jegwantham

PREFACE TO THE SECOND EDITION

THE first edition published in May 1948 was exhausted in September 1948 and I am indebted to the Authorities, industrialists and industrial labour for the welcome they accorded to my book. It is a pleasure for me to find that my book has been recommended for study in the Welfare Course of the Calcutta University. I admit there has been some delay in bringing out this edition which I could not avoid, as I wanted to bring out all up to date legislations and informations on labour and allied matters in one handy volume.

The present edition has been thoroughly revised and brought up to 30th September 1949. The history of the legislative enactments in the introductory notes and comments, giving the reader a clear idea about the past, present and proposed legislations has also been revised. The book contains more materials than the previous one. Up-to-date statistics about factory employment, trade unions and industrial disputes have been added. Several new matters on labour and allied subjects have also been added in the Appendices, on the suggestions of the Judges of Calcutta Industrial Tribunals and Lecturers and Students of the Welfare Course of Calcutta University.

I am grateful to Mr. M. L. Khaitan, Chairman of the Board of Directors of Bata Shoe Co. Ltd., Calcutta and Mr. John F. Bartos, Managing Director, for their keen interest and encouragement and also to Mr. S. N. Chatterjee, Chief Secretary for valuable suggestions and assistance in my endeavour. I am indebted to Mr. S. Lall, C.I.E., I.C.S., Secretary to the Government of India, Ministry of Labour and Chairman of the Governing Body of the International Labour Organisation for help, co-operation and valuable suggestions and also to other Officials of the Ministry of Labour for their assistance and co-operation. My thanks are also due to Mr. K. E. Mathew, Acting Director and Mr. N. N. Kaul and other staff of the International Labour Office, Indian Branch, for help and co-operation and Prof. K. T. Shah, Secretary of the National Planning Committee for permission to reproduce the Recommendations of the Labour Subcommittee of the National Planning Committee and the General Secretary, All India Congress Committee for the Report of the Economic Programme Committee.

Lastly I shall be failing in my duty if I do not express my deep debt of gratitude to the Judges of the different Provincial Tribunals and specially to the Judges of Calcutta Industrial Tribunals for their constructive criticisms, numerous suggestions for improvement and encouraging remarks which have considerably helped me in early completion of this volume inspite of the pressure of my official duties and obligations.

I have not incorporated the decisions of different High Courts and Industrial Tribunals in this volume, as it is practically impossible to include all these in one single volume. I like to publish annotated editions of different Labour Acts separately, if time and opportunity permit

Like the previous edition, I hope this revised edition will be useful to Government Officials entrusted with the administration of labour laws, Judges of different High Courts, Industrial Tribunals, Lawyers, Industrialists, Trade Unionists, Students and Social Workers interested in labour problems.

I have already undertaken to publish the second volume containing all Provincial labour laws. The delay was due to the non-availability of all the Provincial laws or the relevant Provincial Gazettes. Draft Rules and Regulations under some of the Central Acts have not yet been finalised in the Provinces. I hope to bring out this volume at an early date.

In conclusion, I will welcome any suggestion or criticism of my comments and opinion for which I am solely responsible.

30, Theatre Road, Calcutta 16.

11th November, 1949

S. N. BOSE.

INTRODUCTION TO THE FIRST EDITION

THE subject of industrial labour and industrial welfare has to-day assumed greater importance in an independent India. Although the origin of labour legislation can be traced back to the early part of the last century and although India has undertaken several legislative measures in connection with some specified classes of industries, the progress was rather very slow until the inauguration of the International Labour Conference in 1919. The work of the International Labour Office and the annual session of the International Labour Conference had a very great influence on the public opinion in India towards the labour problems and it can not be denied that the chief impetus for most of the progressive labour legislations in India has been derived from the Conventions or Recommendations of the International Labour Conference. Though there are at present 86 Conventions, India has ratified only 16 Conventions¹ and the progress so far achieved is not very much encouraging. The defect was due to lack of proper development of an uniform national labour policy on account of our political subjection. As a result labour legislation in India lacks uniformity in principle and co-ordination in development and the distribution of legislative and administrative powers between the Centre and Provinces under the Government of India Act, 1935, is also responsible for this lack of uniformity. In the pre-Autonomy period, labour legislation was the exclusive jurisdiction of the Central Government although the Provincial Governments could undertake labour measures for local purposes with the consent of the Governor-General. Under the Government of India Act, 1935, legislative powers relating to labour have been divided into three categories, viz., (i) Federal, (ii) Provincial and (iii) Concurrent; but a majority of labour questions have been relegated to the Concurrent List, (Part II of List III). According to the Rege Committee, "this scheme of distribution of powers has resulted in a complete lack of uniformity, both in regard to policy and action". The Whitley Commission recommended in 1931, the

¹ Up to 30th September 1949, India has ratified 17 Conventions out of 98 Conventions

setting up of an Industrial Council consisting of the representatives of the Provincial Governments and Indian States for formulation of an uniform Labour Code for India. Though no action was taken on this recommendation, the establishment of a permanent Tripartite Labour Organisation in 1942 consisting of the representatives of Central, Provincial and State Governments and employers and workers on the model of the International Labour Organisation, was an important step forward in promotion of an uniformity in labour legislation and discussion of all matters of all-India importance concerning employers and employees. This Organisation consists of the Labour Conference which meets once a year and the Standing Labour Committee which meets not less than twice a year. For the sake of uniformity in labour legislation, the jurisdiction of the future Indian Parliament should be extended not only to enactment of labour legislation on all-India basis but also to their administration for ensuring maximum compliance with the provisions of law. The States (Provinces and Indian States) should concentrate in legislative and administrative measures which will not be tackled by the Union Government. The labour problems should always be considered on a broad national basis like food, planning, tariff, etc. An important step taken in this direction is the annual Conference of the Provincial and State Labour Ministers under the Chairmanship of the Labour Minister of the Government of India where labour problems are discussed thoroughly and line of action is recommended. But the Draft Constitution of India proposed by the Drafting Committee of the Constituent Assembly has followed the old plan of legislative distribution, though under Article 217 (4), the Indian Parliament¹ will have power to make laws for the States and Territories of India notwithstanding such matter is a matter enumerated in the State List.

The most important step in the development of a national labour policy has been undertaken by the Indian National Congress beginning with the Karachi Resolution on Fundamental Rights in 1931, Faizpur Resolution on Agrarian Reforms in 1937, Election Manifestos of 1937 and 1947, the famous Quit India Resolution of 1942, the Meerut Resolution of 1946, organisation of Indian National Trade Union Congress in 1947 and ending with the Economic Programme embodied in the

¹ Government of India (Amendment) Act, 1949 passed by the Constituent Assembly of India has empowered the Central Government to legislate exclusively over some items in Part II of the Concurrent List

Report of the Economic Programme Committee of A I C C in 1948. The Congress after assuming charge of seven out of eleven Provinces after the Provincial Autonomy in April, 1937, tried to give effect to the declared Congress Policy and implemented a part of this Policy inspite of several handicaps. The Interim Congress Government at the Centre also drew up a Five-year Labour Programme in 1946 for undertaking legislative and administrative measures for amelioration of labour conditions in India with a view to remove the chief defects revealed by the Royal Commission on Labour in India in 1931 and the Labour Investigation Committee in 1946. This Programme aims at a uniform co-ordinated labour policy for the entire country to promote social security and industrial peace, ensure fair wages and satisfactory conditions of work and embraces not only workers in organised industries but also workers in agriculture, commercial undertakings and unorganised industries and to implement the International Labour Conventions as far as possible. Within a short span of one year, the present Congress Government at the Centre was able to give effect to some of the important items in the Programme and put on the Statute Book, Industrial Disputes Act, 1947, Coal Mines Labour Welfare Fund Act, 1947, Indian Trade Unions (Amendment) Act, 1947, Dock Workers (Regulation of Employment) Act, 1948, Minimum Wages Act, 1948 and Employees' State Insurance Act, 1948. Apart from these enactments, a Bill containing several important provisions regarding welfare and safety of factory workers and covering unregulated factories also, was introduced on 3rd December, 1947 for a thorough overhaul and repeal of the existing Factories Act, 1934. Actions were also taken in the constitution of Labour Bureau, Industrial Committee on Coal Mining, Cotton Textiles and Plantation on tripartite basis on the model of I L.O. The question of making the existing Employment Exchanges permanent and enlarging their scope is also being considered.

Though political freedom has been attained, economic and social freedom have yet to be achieved and for their speedy attainment, the Government is putting more and more emphasis on the industrial development and production of national wealth with the motto: "Produce or Perish!".* The problem of production of national wealth has a vital bearing upon the removal of poverty and illiteracy. Sir William Beveridge's Five Giants, viz., Want, Disease, Ignorance, Squalor and Unemployment flourish unabatedly in India than in

any where else and these Giants should be systematically attacked on a road to reconstruction. A Conference consisting of the representatives of Central, Provincial and State Governments and Employees and Workers was convened by the Government of India in December 1947 to discuss some urgent problems relating to the industrial development in India and to assist the Government in arriving at decisions for immediate increase of production and execution of short-term plans for the industrial development of the country. Several important Resolutions were unanimously passed including one relating to Industrial Truce for three years. The Government of India has accepted this Resolution and is taking necessary steps for its implementation. Under their recently announced Industrial Policy, the Government is proposing to establish machinery for advising on fair wages, fair remuneration to capital and conditions of labour and to associate labour in all matters concerning industrial production. The Government is appointing a Special Officer for quick decisions on matters arising out of the Truce Resolution. It is high time that we should take stock of things and compare our achievements in the domain of labour legislation with other countries of the world, with particular reference to the International Labour Code and Philadelphia Charter. The Philadelphia Charter should always be our guiding principle in the matter of enunciation of a national labour policy and enactment of future labour legislation. The recent enactment of minimum wage legislation and social insurance legislation is a forward step in this direction. After the attainment of freedom, the responsibility rests on the educated public who were not so long very much interested on the subject, to mould the public opinion in a new approach to the entire problem of labour legislation and its administration.

The industrial worker in India has a very vague idea about his general position in law in relation to his employer and his employment and much of existing bitterness and misunderstanding between labour and capital is due to a certain extent to his ignorance of his rights and duties under the existing law. The employer also is not always abreast of the laws in all particulars and specially his duties and responsibilities under the existing law. The respect for industrial laws by employers and employees will be of greatest help in bringing up the general standard of compliance. The need for a comprehensive and consolidated book containing all the existing labour and welfare

legislations has long been felt in India. Mr H. M. Trivedi's book on "Factory and Labour Legislation in India" published in 1945 was the first and solitary attempt for a comprehensive compilation of all legislative measures relating to labour and factory enacted by the Central and Bombay Governments with a nice Introduction. Several important legislations have been undertaken after the publication of this volume. The publication of a consolidated volume containing all the labour laws as amended up-to-date will serve as a handy guide not only to the employers and employees but also to every one who is interested in promoting the cause of industrial labour.

In the present book I have included all the existing labour, factory and labour welfare laws of the Government of India with rules, regulations and relevant notifications, with introductory notes and comments, within the limit of a single volume, for easy reference for lawyers, legislators, industrialists, trade unionists, employers, employees, social workers and people in every walk of life. The Appendix contains several useful informations, viz., the Philadelphia Charter, International Labour Conventions, I.L.O. Resolution on Freedom of Association, Five-year Labour Programme and Industrial Policy of the Government of India and Resolution of the Industries Conference including Resolution on Industrial Truce and machinery for its implementation. The notes and comments made in the book represent my views and error or lack of clarity in the book, if any, may be attributed solely to me. My original ambition was to bring out an annotated edition of the existing labour laws in a single volume incorporating therein the decisions of reported cases of High Courts and I was working on that line; but at the request of several of my friends in the Bar and the Bench for early publication of the volume, I am bringing out the book with introductory notes on each subject of labour legislation. I intend to incorporate the rulings of decided cases of different High Courts and Industrial Tribunals in the next edition. I have also undertaken to publish a second volume of this book with all the labour laws enacted and rules made on Central Acts by the Provincial Governments. Any suggestion and criticism for improvement will be duly considered and thankfully acknowledged.

I owe a deep debt of gratitude to Hon'ble Sri Jagjwan Ram, Labour Minister of the Government of India for having taken the

trouble of going through the book and writing a Foreword. My thanks are also due to my friends Mr. G. C. Bose, Managing Director, Bookland Ltd. and Mr. P. C. Bhattacharjee, Managing Director, World Press Ltd. for their assistance and co-operation in the printing and publication of this volume. My wife has considerably helped me in reading through the proofs and preparation of the index and she has forgone many a pleasure that this book is written.

Jai Hind.

Batanagar, 24-Parganas
14th May, 1948

S N. BOSE

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INDIAN LABOUR CODE
PART I

FACTORY LEGISLATION¹

The most important labour legislation in India relates to the factories. The need for regulation of hours of work and conditions of employment of industrial workers was recognised in India from the middle of the last century. But there was no state regulation of factory labour prior to 1881.

Indian Factories Act, 1881 (XV of 1881)

The first comprehensive legislation for regulating labour in factories was passed in 1881. Indian Factories Act, 1881 applied to manufacturing establishments using mechanical power and employing 100 or more persons, plantation industries being exempted. The Act prohibited the employment of children under seven years of age and prescribed the minimum and maximum ages for employment at seven and twelve, 9 hours working every day with an interval of rest for one hour and a weekly holiday for children only.

Indian Factories Act, 1891 (XI of 1891)

The influence of the first International Labour Conference held in Berlin in 1890 and the pressure from Manchester led to the appointment of a Commission by the Government of India on 25th September, 1890. Mainly on the basis of its recommendation, a new Act was passed in 1891 and came into force on 1st January, 1892. This Act was an advance on the previous Act. The Act applied to all factories employing 50 persons and using power. The lower and upper limits of age of children were fixed at 9 and 14 respectively and their hours of work were limited to 7 hours a day, with a rest interval of half an hour. The Act prescribed an 11 hour day with a rest interval of 1½ hours for women and restricted the employment of women and children. Men were to enjoy an interval of ½ hour rest and one holiday every week. The Provincial Governments were given power to make rules regarding measures of sanitation and comfort.

¹ For historical study, see (1) Factory Labour in India and Factory Legislation in India by Dr Rajani Kanta Das, (2) Indian Factory Legislation A Historical Survey and Indian Factory Law Administration by A G Clow, (3) Factory Labour in India by Dr Ahmed Mukhtar and (4) Reports of the Royal Commission on Labour in India and Labour Investigation Committee.

Indian Factories Act, 1911 (XII of 1911)

The Act of 1911 regulated, for the first time, the hours of work of adult male industrial workers and covered seasonal factories which work for less than 4 months in a year. The Act limited the hours of work of adult male workers to 12 a day and of children to 6 a day in textile factories, with a rest interval of half an hour. The Act contained extensive provisions regarding health and safety and effective inspection of the administration of the factories.

Indian Factories (Amendment) Act, 1922 (II of 1922)

Partly as a result of the International Labour Conference and partly as a result of growing social consciousness of the people, the Factories Act was amended in 1922 making some important changes in the provisions. The amending Act was extended to include all industrial undertakings using mechanical power and employing 20 or more persons. The hours of work for all adult workers, both male and female, were fixed at 11 hours a day and 60 hours a week. A 60 hour a week was introduced in pursuance of a special provision relating to India in Washington Hours Convention of 1919 (8 hours a day and 48 hours a week). All workers were granted a period of one hour rest for work exceeding six hours, a weekly holiday and no worker should go without a holiday for more than 10 days at a time. The minimum age of children was raised to 12 and a child was defined as a person under 15 years of age and their hours of work limited to 6 a day. In case of overtime, workers should receive at least $1\frac{1}{4}$ times the normal rate of pay. The employment of women and children under 18 in certain dangerous processes was prohibited.

Indian Factories (Amendment) Acts, 1923, 1926, 1931 (IX of 1923, XXVII of 1926, XII of 1931)

The Indian Factories Act of 1911 was amended in 1923 with a view to effecting some minor changes for administrative purposes and also in 1926 for providing the infliction of penalties on parents or guardians for allowing children to work in two factories on the same day. It was amended again in 1931 empowering Provincial Governments to make rules for providing for precautions against fire inside factories.

Factories Act, 1934 (XXV of 1934)

The Royal Commission on Labour in their Report published in 1931 made several important recommendations for amendment of Indian Factories Act, 1911. The Factories Act, 1934 is a comprehensive measure amending and consolidating all the previous factory legislations of 1881, 1891 and 1911 as amended by Acts of 1922, 1923, 1926 and 1931. The main objects of the Act are (1) reduction of hours of work, (2) improvement of working conditions within the factory and (3) provisions for adequate inspection and strict observance of the Act.

Main Provisions of the Factories Act, 1934

The most important provisions of the Act are following —

- (1) It covers all manufacturing establishments employing 20 or more persons and using mechanical power.
- (2) A distinction has been made between seasonal and perennial factories, the former working for 180 days or less in a year. Different sets of regulations have been prescribed in respect of hours of work. The Act lays down a 54-hour week and 10 hour day for all adult workers in perennial factories and 56 hours a week or 10 hours a day in case of continuous work, but retains a 60-hour week and 11 hour day in seasonal factories.
- (3) The hours of work of children (persons between the ages of 12 and 15) are reduced from 6 to 5 a day and those of women from 11 to 10 a day both in seasonal and perennial factories.
- (4) Adolescents who are a new category of young persons between 15 and 17 years of age, may not be employed as adults without a medical certificate of physical fitness.
- (5) No child is allowed to work in a factory unless he secures a certificate of fitness, from the Certifying Surgeon, and carries with him a token giving reference to such certificate, while at work. The double employment of children in two factories on the same day is prohibited.
- (6) The period over which a working day may be spread over is fixed at 13 hours a day inclusive of rest intervals in case of adults (male or female) and $7\frac{1}{2}$ in case of children. Women and children should not be employed before 6 a.m. or after 7 p.m., but the Provincial Government may, by notification in the official Gazette, vary these limits so as to make the working day fall within any span of 13 hours between 5 a.m. and 7-30 p.m.
- (7) Every adult worker is entitled to a compulsory interval of rest and it is provided that

no adult worker shall work for a period of 6 hours, 5 hours and $8\frac{1}{2}$ hours, without having a rest interval of 1 hour, half an hour or two intervals of half an hour respectively. (8) All factory workers are entitled to a weekly holiday on Sunday. Exception can be given to adult workers under certain conditions, provided no worker is required to work, for more than 10 days, consecutively, without a holiday, for a whole day. No exemption is allowed in case of children. (9) A worker is entitled to a payment of overtime at the rate of $1\frac{1}{4}$ times the ordinary rate of pay for work exceeding 54 to 60 hours a week in perennial factory and at the rate of $1\frac{1}{2}$ times the ordinary rate of pay for work exceeding 10 hours a day in a perennial factory and exceeding 60 hours a week in either a seasonal or perennial factory. (10) The provisions for health and safety have been amplified and made more stringent. Every factory has to ensure cleanliness, proper ventilation, prescribed standard of coolness, regulation of overcrowding of space and adequate lighting arrangements within the factory. Each factory is required to have adequate supply of pure drinking water, proper sanitary arrangements, sufficient supply of water for washing purposes and to fence dangerous machinery. (11) Provincial Governments have been empowered to make rules (a) requiring a factory employing more than 150 workers to provide adequate rest shelters, (b) requiring any factory employing more than 50 women, to provide creches for their children below 6 and (c) requiring a factory to keep first aid medical appliances and stores under proper custody. (12) The Act provides for a penalty which may extend to Rs. 500/- for contravention of any of its major provisions and enhanced penalty for repeated breach.

Factories (Amendment) Act, 1935 (XI of 1935)

The Act was amended in 1935 prohibiting entirely night work of women in Indian factories in any capacity whatsoever.

Repealing and Amending Act, 1937 (XX of 1937)

The Act repealed Section 82 and the Schedule of the Factories Act, 1934 (XXV of 1934).

Factories (Amendment) Act, 1940 (XVII of 1940)

The Act was amended in 1940 and imposes statutory obligation upon Provincial Governments to extend the provisions of the Act,

concerning health, safety, hours of work and conditions of children and adolescents, to power factory employing 10 to 19 persons defined as "small factory" It also empowers the Provincial Governments to declare any premises to be a "small factory" notwithstanding that less than 10 workers are employed in it.

Factories (Amendment) Act, 1941 (XVI of 1941)

The Act was amended again in 1941 to remedy administrative defects and empowered the Provincial Governments to declare the provisions of the Act to any specified class of employments wherein a manufacturing process is being carried on with or without the use of power, employing 10 or more persons

Factories (Amendment) Act, 1944 (XIV of 1944)

The Act was amended in 1944 with a view to remedy certain defects and meet some difficulties in the working of the Act and for providing some minor changes regarding health and safety and also temporarily amending the provisions restraining the employment of women and children during night till the termination of hostilities

Factories (Amendment) Act, 1945 (III of 1945)

The amended Act introduced substantial change and important provision regarding paid holidays. Annual holidays with pay are the subject of Convention No. 52 adopted by the International Labour Conference in 1936¹ whereby workers in industrial and commercial undertakings are entitled to an annual paid holiday of at least six working days after one year of service. The Factories Act, 1934 was amended in April 1945 to include a special section dealing with annual paid holidays in respect of all perennial factories registered under the Factories Act. The amendment ensures compensatory holidays to workers deprived of the weekly rest by an exemption of the provisions of section 35 of the Act and enforces an annual paid holidays of 10 days for adults and 14 days for children after one year of service with the possibility of accumulating the holidays for a period of two years. These periods exceed the minima laid

¹ For detailed descriptions of the Conventions and Recommendations adapted by the International Labour Conference, see International Labour Code, 1939 (Montreal, 1941).

down in the International Labour Code. The holidays under the amended Act can be accumulated for a period of 2 years while there is no provision for such accumulation in the Code. The wages during leave will be calculated according to the definition of the term in the Payment of Wages Act. Half of the wages for holidays will be paid before the worker proceeds on leave and the balance on his return. If the worker entitled to holidays is discharged by his employer before he has been allowed holidays, or if, having applied for and having been refused the holidays he quits his employment before he has been allowed the holidays, the employer has to pay him the amount payable in respect of holidays.

Factories (Amendment) Act, 1946 (X of 1946)

Though the Washington Convention prescribed a limit of 48 hours a week in industrial undertakings, allowing 60 hours for India, the Factories Act 1934 prescribes maximum weekly hours of 54 on the basis of the recommendation of the Wheatly Commission. The International Labour Conference accepted a Convention No. 47¹ for 40 hours a week in 1935 and some progressive countries like U.S.A., France and Belgium introduced 40-hour week in certain industries. The Factories Act was amended in 1946 reducing the weekly working hours from 54 to 48 in perennial factories and from 60 to 50 in seasonal factories. The daily hour of work is reduced from 10 to 9 in a perennial factory and from 11 to 10 in a seasonal factory. The original Bill² provided for payment for overtime at a uniform rate of one and half times the ordinary rate. But the Select Committee³ unanimously agreed to double the payment for overtime. The amending Act, thus, provides for overtime at the rate of twice the ordinary rate of pay of the workers. The overtime should equitably be on a uniform basis and work in excess of 9 hours a day should be remunerated alike whether in a perennial or seasonal factory, though no overtime payment was previously provided for working over 11 hours a day in a seasonal factory. Provincial Governments have been empowered to permit factories to work beyond the fixed limits in the public interest.

¹ For detailed descriptions of the Conventions and Recommendations adapted by the International Labour Conference, see International Labour Code, 1939 (Montreal, 1941).

² For Statement of Objects and Reasons, see Gazette of India, Part V, 23rd February, 1946.

³ For Report of the Select Committee, see *Ibid.*, Part V, 23rd March, 1946.

Factories (Amendment) Act, 1947 (V of 1947)

The Act was amended in 1947 to enable the Provincial Governments to make rules requiring specified factories employing more than 250 persons, to set up canteens in conformity with prescribed standards and conditions. Canteens in industrial establishments are of inestimable value to workers as well as to managements, as by providing inexpensive wholesome food to the workers, they promote their health and well-being upon which the productive efficiency and the welfare of trade in which they are engaged largely depend. The subject was discussed at the Seventh Labour Conference in 1945 which decided in favour of such legislation. A Bill¹ was accordingly introduced in the Legislative Assembly on the 28th October 1946 and was passed (V of 1947). The Act also rectified an omission in the Factories (Amendment) Act, 1946 by deleting "non-seasonal" in the proviso to section 34 of the Act.

Five-Year Labour Programme of the Government of India

The Government of India, during the Interim Congress regime, drew up a Five-year Programme² of legislative and administrative measures for amelioration of labour conditions in India after the same was discussed and approved at Conferences with Provincial Labour Ministers, of State Ministers and of representatives of employers' and workers' organisations. Under this programme the Government undertook a thorough revision of the Factories Act, 1934 extending its scope virtually to all work places where work or manufacturing progress is carried on with a view to sale or profit and incorporating provisions regarding health of the workers such as those relating to cleanliness, ventilation, temperature, dangerous dusts and fumes, lighting, control of glare and so forth and also laying down standard for welfare measures such as washing facilities, first aid, canteens, shelter rooms and creches. The U.K. Factories Act, 1937 is being taken as a useful guide for the purpose of the revision of the Factories Act as the former is the most up to date and comprehensive piece of legislation and incorporates most of the provisions of I. L. O. Code of Industrial Hygiene.

¹ For Statement of Objects and Reasons, see Gazette of India, Part V, 2nd November 1946, p. 241.

² For a short resume of the Programme, see Indian Labour Gazette, March and June, 1947 and International Labour Review, May 1947.

Factory Reform

Measures to bring the working conditions of factory labour in India up to the standards prevailing in the leading industrial countries of the world are being taken up by a special organisation set up by the Government of India under the Chief Adviser, Factories. The services of Sir Wilfrid Garret, Chief Inspector of Factories and two senior Inspectors of Factories, United Kingdom, were obtained on contract to place the Chief Adviser, Factories Organisation on a sound footing. This Organisation will offer advice to the Central Government, Provincial Governments, States and employers on conditions necessary to ensure the safety and health of the workers and will be available for consultation for all matters relating to design and lay-out of factories and on the standards of housing, factory construction, conditions of work, health and safety precautions, control of dust, etc. It organises training and refresher courses for Factory Inspectors and others interested in the administration of the Factories Act and thus functions as a centre of technical information and advice and as a venue for discussion among Factory Inspectors. It publishes leaflets, pamphlets and bulletins for education of workers and employers in safety, sanitation and welfare works. A Museum of Industrial Safety, Health and Welfare is being set up to serve as a centre of demonstration and a permanent exhibition of methods, arrangements and appliances for promoting safety, health and welfare of industrial workers.

Proposal for Overhaul of the Factories Act, 1934

Under the Factories Act, 1934, factory inspection in the Provinces has been entrusted to Provincial authorities. The Labour Investigation Committee¹ appointed by the Government of India early 1944, in pursuance of a Resolution passed by the Tripartite Labour Conference in September 1943, admitted in their Main Report published in 1946 that the enforcement of labour laws has not been up to the mark, the standards of inspection in most Provinces are poor and even the strength of the Inspectorate is miserably small. The existing provisions for ensuring the safety follow the out-of-date U.K. Act of 1889 and are quite inadequate and unsuitable for modern industrial conditions. The U. K. Factories Act, 1937² (1 Edw. 8 & 1

¹ Labour Investigation Committee, Main Report (Delhi, 1946)

² Factory Law by H. Samuels (London, 1948) and Redgrave's Factory Acts (London, 1945).

Geo 6, Ch. 67) introduced extensive changes in the sphere of safety which should go to lessen the toll of accidents in industry and local sanitary authorities were entrusted with the enforcing of the sanitary and health provisions of the Act.

Factories Act, 1948 (LXIII of 1948)

A comprehensive Bill¹ to consolidate and amend the law relating to factory labour was prepared by the Government on the general lines approved in the Ninth Meeting of the Standing Labour Committee and in the light of discussions held with the Provincial Chief Inspector of Factories and was introduced in the Dominion Assembly on the 3rd December, 1947. The Bill extends the scope to all industrial establishments employing ten or more workers where power is used and twenty or more workers in all other cases and lay down all essential measures, relating to cleanliness, ventilation, lighting, sanitary arrangements, health, safety and welfare of the workers and places the responsibility on the factory owner for taking safety measures in the factory. Plans and specifications for new factories or extension of the existing factories have to be submitted to the Provincial Government and proper arrangement should be made for disposal of wastes and effluents. The Bill was circulated under executive orders for eliciting public opinion and Provincial Governments were asked to forward the comments received from the various bodies with their own views. The Bill was referred to the Select Committee² on the 30th January, 1948 which submitted Report on the 9th August 1948. In his speech before the Dominion Assembly on the 30th January, 1949 while moving that the Bill be referred to the Select Committee, the Labour Minister Hon'ble Sri Jagjiwan Ram explained some of the main changes proposed in the existing law and stated,³ "We have tried to implement as many provisions of the International Organisation Code of Industrial Hygiene as are practicable under Indian conditions. The provisions relating to periodical medical examination of young persons and the submission of plans of factory buildings are also from I.L.O. Conventions. We have also freely drawn upon the British Factories Act, one of the most comprehensive pieces of legislation on the subject. When this Bill is passed into

¹ For Statement of Objects and Reasons, see Gazette of India, Part V, dated 13th December, 1947.

² For Report of the Select Committee, see *ibid*, dated 21st August, 1948.

³ Constituent Assembly of India (Legislative) Debates, 30-1-48 (Vol I—No. 2, p 77).

law, we would have placed on the Statute Book a Factory law which, if properly enforced, will secure marked and distinct improvement in working conditions " The Select Committee made certain important changes adding materially to the usefulness of the Bill The Bill was passed on the 28th August, 1948, received the assent of the Governor General on the 23rd September 1948 and came into force from 1st April, 1949.

The new Act codifies for the first time, the old international principle that none should employ any worker on any manufacturing process without ensuring his health, safety and welfare. Opinions with regard to the measures to modify the old factory law was divergent, some complained that the Government was going rather too fast in the matter of labour legislation, some felt that these measures were not far reaching enough, while others regarded the new Act as the Charter of the Workers' Rights The Labour Minister Sri Jagjivan Ram in his broadcast appeal to the workers and employers from All-India Radio, Delhi on 5th September, 1948 summed up the Government reaction to these criticism as follows, "This enactment is nothing beyond an earnest attempt to secure for factory workers, their elementary rights and basic comforts—simple things which unfortunately have, in many cases, been so blatantly denied to them."¹

Important Features of the New Act

Scope

The Act extends to all the Provinces in India and to every Acceding State to the extent to which the Dominion Parliament may make laws for that State with respect to the matters dealt with in the Act. The scope of the Act has been considerably widened to include unregulated factories also. The Act covers all industrial establishments employing 10 or more workers where manufacturing process is carried on with the aid of power, or 20 or more workers in all other cases. The Provincial Government is now authorised to extend the provisions of the Act to any premises where manufacturing process is carried on with lesser number of workers, viz. less than 10 workers if power is used or less than 20 workers if power is not used, except where the work is done by the owner solely with the aid of his family. The distinction between seasonal and perennial factories has been done with. The Act applies

¹ Indian Labour Gazette, September, 1948, p. 140

to the Central and Provincial Government factories unless otherwise exempted.

Approval, Licencing and Registration of Factories

As the designs and lay-out of most of the factory buildings and machineries have been found unsatisfactory, a new provision has been introduced enabling the Provincial Government to frame rules regarding approval, licencing and registration of factories for exercising control over compliance with the law in matters relating to health, safety and welfare. Permission has to be obtained from the Provincial Government or the Chief Inspector of Factories for approval of the site on which the factory is to be situated and for its construction and extension after submission of plans and specifications. The registration and licencing of factories will be made on payment of prescribed fees which are also payable in connection with renewal thereof.

Inspecting Staff

Provincial Government is authorised to appoint persons possessing prescribed qualifications as Inspectors. Some changes have been made in the duties of Certifying Surgeons in connection with examination and certification of young persons and of persons engaged in dangerous occupations or processes and the exercise of medical supervision in any factory where occurrence of occupational diseases has been noticed or is suspected or where there is a likelihood of injury to health owing to adoption of a new manufacturing process or use of a new substance.

Health

The existing chapter on Health and Safety has been split up into three separate chapters each dealing with Health, Safety and Welfare and the sections were re-drafted and amplified prescribing the minimum standards required and introducing several new provisions. New health provisions include measures relating to particular method of cleanliness, disposal of waste and effluents, standard of ventilation and reasonable temperature, dust and fume, lighting, supply of cold and wholesome drinking water, provision of sufficient spittoons of prescribed type in convenient places and sanitary water closets. A minimum working space of 350 cubic feet for each worker

in the existing factories should be provided and 500 cubic feet in factories built after the commencement of the Act

Safety

Detailed new safety measures have been provided ensuring the safety of worker working amidst machinery, to bring the safety requirements up to the accepted standards of industrially advanced countries. The Act places the onus of compliance with the occupier and manager of the factory and non-compliance is liable to heavy punishments. New provisions relate to the fencing of new machinery and measures to be taken in connection with the hoists, lifts, cranes and other lifting machinery, revolving machinery and pressure plant, prohibition of lifting, carrying or moving excessive weights, precautions against dangerous fumes, explosive or inflammable gas, dust, etc. and protection of eyes. Sale or hire of machinery not protected as required is also prohibited.

Welfare

Majority of welfare provisions introduced in the Act are new. In every factory adequate, suitable and clean washing facilities should be provided with separate and screened provisions for male and female workers and also sitting facilities for workers obliged to work in a standing position so that he may take advantage of any opportunity of rest which may occur. The Inspector may direct the occupier to provide seating facilities for worker when he is able to work efficiently in a sitting position. The Provincial Government may make rules for facilities for storing and drying of wet clothing of the workers. First aid boxes or cupboards in charge of a trained person must be provided and maintained in every factory to the number of one to 150 workers and should be readily accessible during all working hours. An ambulance room containing prescribed equipment and in charge of such medical nursing staff as may be prescribed, must be installed in every factory with more than 500 workers. Provincial Government may make rules requiring factories employing more than 250 workers to provide an adequate canteen prescribing date, standards of construction, accommodation, furniture and other equipment, quality of foodstuff with their charges and constitution of managing committee with workers' representatives. The last item is the only change over the Amending Act of 1947 about provision of canteen. The Act also provides for maintenance in a cool and

clean condition by every factory employing over 150 workers, of sufficiently lighted and ventilated, adequate shelters, rest rooms and suitable lunch room with provision for drinking water where workers can eat meals brought by them. Factory employing more than 50 women workers must maintain adequately lighted and ventilated rooms in a clean and sanitary condition for use of their children under 6 years of age. Provincial Government may prescribe rules for location and standards of such rooms including facilities for washing and changing the clothing, supply of free milk or refreshment and feeding of children at necessary intervals by their mothers. Factory employing 500 or more workers must employ such number of Welfare Officers as may be prescribed and Provincial Governments have been authorised to prescribe the duties, qualifications and conditions of service of such officers for ensuring the appointment of right type of people. Provincial Government may make rules requiring representatives of workers in a factory to be associated with the management of welfare arrangements.

Working hours

Working hours of adult worker have been fixed at 48 hours a week and 9 hours a day. No period of work shall exceed 5 hours and a rest interval of at least half an hour must be allowed after 5 hour's work. The spread over inclusive of period of rest shall not be more than $10\frac{1}{2}$ hours. A worker is entitled to payment at the rate of twice his ordinary rate of wages for overtime work. The term "ordinary rate of wages" in connection with overtime pay means basic wages plus such allowances, including cash equivalent of the advantages accruing through the concessional sale to workers of foodgrains and other articles as the worker is for the time being entitled to, but does not include a bonus.¹ The Provincial Government may make rules which shall remain in force for not more than 3 years, exempting adult workers engaged on specified work from

¹ The interpretation of the term "ordinary rate of pay" in the old Act was for sometime past a matter of dispute between the employers and the Government. The employers were definitely of opinion that it would mean only the basic pay or wages, but the Government interpreted that it included the dearness and other allowances which might be in force at the time. The new Factories Bill defined it as basic pay and such allowances as the worker was for the time being entitled to, but did not include a bonus. The Select Committee made the position clear beyond doubt and amplified it by including within its meaning all payments and concessions made to a worker whether in cash or in kind except bonus.

certain provisions of hours restriction, but the total number of hours of work for persons exempted (except workers engaged on urgent repairs) should not exceed 10 hours a day, the total number of hours of overtime may not exceed 50 in any one quarter and the spread over inclusive of intervals for rest may not exceed 12 hours in any one day. Double employment of adult worker is prohibited.

Employment of Women

The Act prohibits exemption of women workers from the provisions of 9 hours a day. Such women should be employed between 6 A.M. and 7 P.M. Provincial Government may vary the limits but no such variation shall authorise employment between the hours of 10 P.M. and 5 A.M. except in fish-curing and fish-canning factories.

Employment of Young Persons

The minimum age for employment of a child worker is raised from 12 to 14 years and the age limit of adolescent is raised from 17 to 18 years. The term "young person" is now used to denote a worker between 14 and 18 years of age. The provisions relating to Certificate of fitness for employment of young persons under 18 years of age have been strengthened and provide for their adequate medical examination before employment and also for annual examination. The issue or renewal of a certificate of fitness is subject to conditions in regard to nature of work of young persons and require re-examination before expiry of 12 months. Adolescent (persons between 15 to 18 years of age) can not work as adult without a medical certificate of fitness. The working hours of child (person under 15 years of age and adolescent not qualified to work as adult) have been fixed at 4½ hours a day and he is not permitted to work between 7 P.M. and 6 A.M. The period of work is limited to two shifts which must not overlap or spread over more than 5 hours each and each child shall be employed in only one of the relays. No exemption from the provisions of weekly holidays can be granted for child workers. These provisions are in additions to those of Employment of Children Act, 1938. A young person is prohibited to work at a dangerous machine unless he has been fully instructed about the dangers arising in connection with the machine and precautions to be observed and has received sufficient training in work at the machine or is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

Leave with Wages

The provisions regarding holidays with pay have been radically changed and substantially recast. The leave rules of the Federal Railways being more liberal, these provisions shall not apply to any workshop of Federal Railway. A worker with 12 months continuous service is entitled during the subsequent period of 12 months annual leave with wages calculated at the rate of one day for every 20 days of work during the previous 12 months up to a minimum of 10 days for an adult¹ and one day for every 15 days subject to a minimum of 14 days for a child, these days being inclusive of any holiday which may occur during such period. A worker whose services are terminated after completing 4 months but less than 12 months' continuous service, is entitled to proportionate paid leave. Leave not enjoyed in the year can be accumulated to the succeeding year up to a limit of 15 days for an adult and 20 days for child². There shall not be any limit to the above minimum if the worker is not granted leave in accordance with a scheme of leave made by the employer in agreement with the Works Council or Workers' representatives and lodged with the Chief Inspector. Such scheme should be posted in convenient places in the factory and shall be in force for a period of 12 months and is renewable with or without modification, for a further period of 12 months. A worker shall apply in writing to the Manager not less than 15 days before taking leave and the total leave may be taken in 3 instalments instead of in a continuous period as before. Worker in public utility service has to apply at least 30 days before. If a worker entitled to leave or having applied for but not granted such leave, is discharged before taking leave, he shall be paid wages for his due leave period before the expiry of the second working day of the termination of his service. A worker shall be deemed to have completed period of continuous service in spite of interruptions brought by (i) sickness, accident or authorised leave not exceeding in the aggregate one sixth of the period, (ii) a strike which is not an illegal strike or lockout, (iii) one or more periods of involuntary unemployment not exceeding in the aggregate one twelfth of the period and (iv) leave admissible or granted under any other

¹ The old Act sanctioned 10 days' annual holidays with pay for adult and 14 days for child.

² Under the old Act, 10 days for adult and 14 days for child can be carried over.

law. "Authorised leave" includes casual absence due to any reasonable cause and also unauthorised absence not exceeding in the aggregate one thirty-six of the period of the continuous service provided that the worker gives the reason of his absence in writing to the manager within a week from its commencement. The above provisions of leave shall not prejudice the rights of workers under any other law or under any award, agreement or contract of service providing for longer leave with wages. Leave shall not include weekly holidays or holidays for festivals or other occasions except as provided for annual leave.

Wages during leave period will be at a rate equal to the daily average of the worker's total full-time earning, exclusive of overtime earnings and bonus but inclusive of dearness allowance and cash equivalent of any advantage, for the days worked during the month immediately preceding the leave. The wages due to a worker for a period of leave for not less than 4 days in case of an adult and 5 days in case of a child, should be paid in advance¹ before the leave begins. The Inspector may institute proceedings on behalf of the workers for recovery of advance wages in case of employer's default.

Other Provisions

New provisions have been introduced authorising Provincial Government to make rules providing for periodical medical examination of workers in certain dangerous trades and for restricting or controlling use of specified materials or processes with a view to control occupational diseases such as lead poisoning, anthrax, silicosis, etc. Provisions have also been made requiring factory managers and medical practitioners attending factory workers to give notice of industrial diseases to the Chief Inspector. The Provincial Government has been authorised to direct enquiry into the causes of accidents and into cases where an industrial disease has been contracted in the factory. Inspectors are authorised to take a sufficient sample of substances used in the manufacturing process if the use is either contrary to the provisions of the Act or likely to cause bodily injury or disease, for examination. Wrongful disclosure of results of analysis is punishable with imprisonment up to 3 months or with fine up to Rs. 500/- or both. The Act gives Central Government powers

¹ The old Act allows advance payment of half of the total pay due for the period of holidays. The new Bill also endorsed it but limited to holidays for not less than 6 days. The Select Committee made the above amendment.

of directions over the Provincial Governments for carrying out the provisions of the Act

Penalties and Procedure

The old Act only provides for a fine for contraventions of the provisions of the Act. The new Act provides for imprisonment up to 3 months or a fine up to Rs. 500/- or both for the first offence and up to 6 months or a fine up to Rs. 1000/- or both for the second and subsequent offence. Complaints should be made within 3 months of the commission of the offence to the knowledge of the Inspector or 6 months in the case of disobedience to Inspector's written order.

Obligations of Workers

Where lunch room exists, worker should not eat any food in the work room. New provisions have been added placing some obligations on the workers and contravention is punishable with imprisonment up to 3 months or with fine up to Rs. 100/- or both. Workers contravening any provision of the Act or any Rules or orders made thereunder imposing any duty or liability, shall be punishable with fine extending to Rs. 20/- When a worker is so convicted, the occupier or manager shall not be deemed to be guilty of an offence in respect of that contravention unless it is proved that he failed to take all reasonable measures for its prevention.

Some Defects of the New Act

(1) The major defect of the Act is that wide powers have been given to the Provincial Government to exempt factories from all or any of the provisions of the Act and this, if not properly and judiciously exercised, may nullify the whole effect of the Act. Situation arising out of emergency could have been met by promulgation of Ordinances by the Central Government. (2) The age limit of child should have been increased to 15 years. (3) The provisions permitting Provincial Government to exempt women working in fish-curing or fish-canning factories from restrictions on employment of women from 10 P.M. to 5 A.M. is not a square deal to women workers, as it may lead to abuses and prove disruptive of home life. The extension of women's hours of work until 10 P.M. is also objectionable on similar ground. Three members of the Select Committee also submitted Minute of Dissent on this point. (4) No improvement has been made over the amended Act of 1946 regarding hours of work.

The Washington Hours Convention¹ of 1919 limiting hours of work to 8 hours a day has not even been followed. Though 40-Hour Week Convention of 1935 (I.L.O. Convention No. 47) can not be adhered to like U.S.A., France, Belgium and other advanced and industrially developed countries, a 44-hour week with 8 hours on week days and 4 hours on Saturday could have been introduced.

Amendment of the Factories Act, 1948

Certain ambiguity and minor amendments of the Act were done by the Repealing and Amending Act, 1949 (XL of 1949).

Strengthening of Factory Inspectorate

The Labour Investigation Committee has strongly criticised the standard of enforcement of factory laws. "However, it is a regrettable fact that the enforcement of labour laws have not been up to the mark and although much has been done by way of putting the workers' right on the Statute Book, on the whole the worker has not been able to obtain a fair deal. His illiteracy, ignorance and unhealthiness have been availed of by some employers who have been able to break or disregard the law with impunity."² The Committee remarked that the evasions of the provisions of law were largely due to the inadequacy of factory inspectorate. The question of adequate factory inspection was discussed in the Conferences of Chief Inspectors of Factories and Provincial and States Labour Ministers and special stress was placed on the immediate necessity of strengthening of the factory inspection services for proper and efficient enforcement of the Act. It was suggested that the standard strength of Factory Inspectorate should be one Inspector for every 150 to 200 factories.

I.L.O. Convention and Recommendation on Labour Inspection.

The International Labour Organisation on the 11th July, 1947 adopted one Convention (No. 81) and one Recommendation (No. 81)

¹ The first International Labour Conference held in Washington in 1919 adopted a Convention limiting the hours of work in industrial undertakings to 8 in a day and 48 in a week, but, by a special article, allowed India to adopt a 60-hour week having regard to the conditions then prevailing in the country. Weekly limit to working hours in factories was unknown in India prior to 1922 when a 60-hour week was first introduced in pursuance of the special provision relating to India in the Washington Hours Convention by an Amendment (Act II of 1922) of the Indian Factories Act, 1911.

² Labour Investigation Committee, Main Report, p. 9.

concerning Labour Inspection in Industry and Commerce, after accepting India Government's suggestion that the function of the Labour Inspection Organisation should not be confined to the enforcement of the existing legal provisions relating to the conditions of work and the protection of the workers but they should also extend to drawing the attention of the competent authorities towards defects or abuses not specifically covered by the existing labour legislation. This Convention has recently been ratified by India. Under its provisions, the Convention will come into force a year after it has been ratified by two countries. Norway ratified it in January 1949 and India is the second country to ratify it. The Convention will come into force after a year and requires countries ratifying it to maintain a labour inspection system which conforms to standards set out in the Convention.

Preparatory Asian Conference on Labour Inspection

In pursuance of the Resolution adopted at the Preparatory Asian Regional Conference held in New Delhi in 1947, a Preparatory Conference on Labour Inspection in Asian countries was held at Kandy in Ceylon in November, 1948. The Conference discussed the three aspects of labour inspection with special reference to (a) recruitment and training of labour inspectors, employment of women in labour inspection services, (b) role of inspectorate in the enforcement of measures intended to ameliorate working and living conditions and (c) standardisation of the collection and publication of information obtained by labour inspectors in various countries. The Conference decided to bring to the attention of the authorities concerned the need for ensuring that the strength of the Inspectorates and the facilities at their disposal should keep pace with tasks they have to perform in view of the expansion and development of labour and social legislation in the Asian countries.

I. L. O. Industrial Safety Code

A Technical Tripartite Conference under the auspices of the I.L.O. was held in Geneva on the 27th September 1948 to examine the Draft Model Code of Safety Regulations for Factories with a view to the adoption of a text suitable for international application. The drafting of the Model Code was completed and after final approval,

is being sent to the different Governments for their guidance in the drafting of laws and regulations on industrial safety.

Model Rules under the Factories Act, 1948

The Draft Model Rules framed by the Chief Adviser, Factories, for the guidance of Provinces and States were discussed at the Seventh Conference of the Chief Inspectors of Factories held in New Delhi on the 15th September 1948. In the light of the discussions, the draft Rules were revised and forwarded to the Chief Inspectors of Factories for comments. The comments received were further discussed at a Conference of the Chief Inspector of Factories and forwarded to the Provincial and States Governments for adoption. Both the Conferences were unanimous about the necessity of securing uniformity in the matter of factory regulations throughout the country and with this object in view the Model Rules were framed. The Provincial Governments have been requested to forward their suggestions for any change to the Draft Rules, if considered absolutely essential, to the Government of India with their own views along with the comments and objections received from the public. The Schedules included in the Draft Rules are not exhaustive but only illustrative and will be supplemented to suit local needs. The Chief Adviser, Factories, has issued a Guide to the Safety Provisions of the new Act. There are provisions prescribing certain measures requiring considerable time to implement and the Provincial Governments have been granted powers to prescribe a date from which such provisions will take effect. The general view expressed in the Conferences of the Chief Inspector of Factories regarding License Fees was that the same should be fixed on the basis of horse power installed and the number of persons employed and that there should be an uniform scale of fees for all Provinces and States. The duties of Inspectors were also discussed and it was thought desirable to deal with the same by executive instructions of confidential or semi-confidential nature.

Factory Employment

The Chief Inspector of Factories responsible for the administration of the Act, submits Annual Report to the Provincial Government showing the enumeration of factories, inspections, employment, etc.

on the basis of the returns received from the employers. This Report was previously published but has been stopped since the last war. Summaries of employment position in factories are also being published in the Indian Labour Gazette¹ from time to time. The following statement shows the number of factories covered by the Factories Act, 1934 and the average daily number of workers employed therein from 1939 to 1947.

Year	No. of Factories			Average Daily Number of Workers Employed
1939 10,466	1,751,137
1940 10,919	1,844,428
1941 11,868	2,156,377
1942 12,527	2,282,288
1943 13,209	2,436,312
1944 14,071	2,522,753
1945 14,761	2,642,977
1946 13,377	2,213,555
1947 ² 14,023	2,235,138

The total number of workers employed in factories during 1945 exceeded the pre-war level by 892 thousands or 50.9 per cent and that 1944 by 120 thousand or 4.8 per cent. This increase was almost entirely due to employment in perennial factories. The increase in employment is mainly the result of growth and expansion of Ordnance factories, Army Clothing factories, Engineering, Iron, Steel etc. The highest increase in employment was recorded by Ordnance factories, the rise being 505 per cent over the corresponding figure of 1939 and about 17 per cent over those of 1944. Employment in textiles was increased by 23.7 per cent, in engineering by 96.9 per cent and in Railway workshop by 108.9 per cent. Bengal continues to occupy the first place in industrial employment (28.1 per cent) Bombay comes next (27.8 per cent), Madras (10.5 per cent) and U. P. (10.4 per cent).

The factory employment which attained a peak-figure of about 26.4 lakhs in 1945 in British India (24.4 lakhs in Indian Dominion) record-

¹ Indian Labour Gazette, October 1946, October 1947 and February 1949

² These figures relate to the Dominion of India except East Punjab while the previous ones relate to British India.

ed a fall of about 7 per cent in 1946 due to huge reductions in Ordnance and other factories immediately after the end of the war. There was slight increase of about 10 per cent in 1947 due to increase of a number of factories in Bombay, Madras and Orissa. Both in 1946 and 1947 Bombay tops the list of factory employment¹ (702,465 in 1947 against 680,896 in 1946), West Bengal comes next (667,626 in 1947 against 663,087 in 1946), Madras (276,586 in 1947 against 262,292 in 1946) and Orissa (10,592 in 1947 against 7,443 in 1946). While Bombay, Madras and West Bengal showed signs of recovery in 1947 against the background of reduction after the war, Bihar, C P & Berar and U P recorded further reductions

FACTORIES ACT, 1948 (LXIII OF 1948)

Arrangement of Sections

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¹ Indian Labour Gazette, February, 1949, page 545

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Showing the Sections of the Factories Act, 1948 (LXIII of 1948) corresponding to the Sections of the Factories Act, 1934 (XXV of 1934) and the Indian Factories Act, 1911 (XII of 1911)

Act LXIII of 1948.	Act XXV of 1934	Act XII of 1911
1	1	1
2	2	2
3	3	
4	6	53
5	8	56
6		

COMPARATIVE TABLE—(Contd.)

Act LXIII of 1948	Act XXV of 1934	Act XII of 1911
7	9	33
8	10	4
9	11	5
10	12	6 & 7
11	13	
12		
13	14	
14	14 (2)	10
15	15 & 16	12
16	17	
17	18	11
18	19	14
19	20	13
20		
21	24	18
22	27	
23	28	
24		
25		
26		
27	29	20
28		
29		
30		
31		
32	21	15
33		
34		
35		
36		
37		
38	21, 22, 23	16 & 17
39	25	18A
40	26	
41	32	
42	19	
43		
44		
45		
46	33A	
47	33 (1)	
48	33 (2)	
49		
50		
51	34	27

COMPARATIVE TABLE—(Contd.)

Act LXIII of 1948	Act XXV of 1934	Act XII of 1911
52	35	22
53	35A	
54	36	28
55	37	21
56	38	
57	46	
58	49	
59	47	31
60	48	
61	39 & 40	
62	41	35
63	42	
64	43	29
65	44	30
66	45	32A
67	50	23 (a)
68	51	23 (a)
69	52	
70	53	
71	54	23 (c), 21 (2)
72	55	
73	56	
74	57	
75	58	
76	59	
77	59C	
78	49A	
79	49B	
80	49C	
81	49D	
82	49E	
83	49F	
84	49G	
85		
86		
87	33 (4)	
88	30	34
89		
90		
91		
92	60	
93		
94	61	
95	63	43
96		

COMPARATIVE TABLE—(Contd.)

Act LXIII of 1948	Act XXV of 1934	Act XII of 1911
97		
98	67	44
99	68	44A
100	70	
101	71	42
102		
103	72	46
104	73	47
105	74	48
106	75	49
107	31	
108	76	36
109		
110	77	38
111		
112		
113		
114		
115	79	39
116	80	54
117	81	58
118		
119		
120	82	59

FACTORIES ACT, 1948 (LXIII OF 1948)¹

An Act to consolidate and amend the law regulating labour in factories.

WHEREAS it is expedient to consolidate and amend the law regulating labour in factories ;

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement. —(1) This Act may be called the Factories Act, 1948

²[(2) It extends to all the Provinces of India and also to every

¹ For Statement of Objects and Reasons, see Gazette of India, Part V, 1947, p. 546 and for the Report of the Select Committee, see Ibid, 1948, p 551

² This sub-section was substituted by the Repealing and Amending Act, 1949 (XL of 1949)

Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act]

(3) It shall come into force on the 1st day of April 1949

2. Interpretation.—In this Act, unless there is anything repugnant in the subject or context,—

- (a) “adult” means a person who has completed his eighteenth year of age,
- (b) “adolescent” means a person who has completed his fifteenth year of age but has not completed his eighteenth year ;
- (c) “child” means a person who has not completed his fifteenth year of age ;
- (d) “young person” means a person who is either a child or an adolescent ;
- (e) “day” means a period of twenty-four hours beginning at midnight ;
- (f) “week” means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Chief Inspector of Factories ;
- (g) “power” means electrical energy, or any other form of energy which is mechanically transmitted and is not generated by human or animal agency ;
- (h) “prime mover” means any engine, motor or other appliance which generates or otherwise provides power ;
- (i) “transmission machinery” means any shaft, wheel, drum, pulley, system of pulleys, coupling, clutch, driving belt or other appliance or device by which the motion of a prime mover is transmitted to or received by any machinery or appliance ;
- (j) “machinery” includes prime movers, transmission machinery and all other appliances whereby power is generated, transformed, transmitted or applied ;
- (k) “manufacturing process” means any process for—
 - (i) making altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal, or

- (ii) pumping oil, water or sewage or
- (iii) generating, transforming or transmitting power, or
- (iv) printing by letterpress, lithography, photogravure or other similar work or book-binding, which is carried on by way of trade or for purposes of gain, or incidentally to another business so carried on, or
- (v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels ;
- (l) "worker" means a person employed, directly or through any agency, whether for wages or not, in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work incidental to, or connected with, the manufacturing process, or the subject of the manufacturing process ;
- (m) "factory" means any premises including the precincts thereof—
 - (i) whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or
 - (ii) whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,—
 but does not include a mine subject to the operation of the Indian Mines Act, 1923 (IV of 1923), or a railway running shed ;
- (n) "occupier" of a factory means the person who has ultimate control over the affairs of the factory and where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory ;
- (o) "managing agent" has the meaning assigned to it in the Indian Companies Act, 1913 (VII of 1913) ;
- (p) "prescribed" means prescribed by rules made by the Provincial Government under this Act ;
- (q) "Provincial Government" includes the Government of an Acceding State to which this Act applies and all refer-

ences to a province shall be construed as references also to an Acceding State ,

- (1) where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such sets is called a "relay" and each of such period is called a "shift".

3. References to time of day—In this Act references to time of day are references to Indian Standard Time, being five and a half hours ahead of Greenwich Mean Time :

Provided that for any area in which Indian Standard Time is not ordinarily observed the Provincial Government may make rules—

- (a) specifying the area,
- (b) defining the local mean time ordinarily observed therein, and
- (c) permitting such time to be observed in all or any of the factories situated in the area.

4. Power to declare departments to be separate factories.—

The Provincial Government may, by order in writing, direct that different departments or branches of a specified factory shall be treated as separate factories for all or any of the purposes of this Act.

5. Power to exempt during public emergency.—In any case of public emergency the Provincial Government may, by notification in the official Gazette, exempt any factory or class or description of factories from all or any of the provisions of this Act for such period and subject to such conditions as it may think fit :

Provided that no such notification shall be made for a period exceeding three months at a time.

6. Approval, licensing and registration of factories.—(1) The Provincial Government may make rules—

- (a) requiring the previous permission in writing of the Provincial Government or the Chief Inspector to be obtained for the site on which the factory is to be situated and for the construction or extension of any factory or class or description of factories ;
- (b) requiring for the purpose of considering applications for such permission the submission of plans and specifications ;
- (c) prescribing the nature of such plans and specifications and by whom they shall be certified ;

- (d) requiring the registration and licensing of factories or any class or description of factories, and prescribing the fees payable for such registration and licensing and for the renewal of licences ;
- (c) requiring that no licence shall be granted or renewed unless the notice specified in section 7 has been given

(2) If on an application for permission referred to in clause (a) of sub-section (1) accompanied by the plans and specifications required by the rules made under clause (b) of that sub-section, sent to the Provincial Government or Chief Inspector by registered post, no order is communicated to the applicant within three months from the date on which it is so sent, the permission applied for in the said application shall be deemed to have been granted.

(3) Where a Provincial Government or a Chief Inspector refuses to grant permission to the site, construction or extension of a factory or to the registration and licensing of a factory, the applicant may within thirty days of the date of such refusal appeal to the Central Government if the decision appealed from was of the Provincial Government and to the Provincial Government in any other case

Explanation.—A factory shall not be deemed to be extended within the meaning of this section by reason only of the replacement of any plant or machinery, or within such limits as may be prescribed of the addition of any plant or machinery.

7. Notice by occupier. —(1) The occupier shall, at least fifteen days before he begins to occupy or use any premises as a factory, send to the Chief Inspector a written notice containing—

- (a) the name and situation of the factory ;
- (b) the name and address of the occupier ;
- (c) the address to which communications relating to the factory may be sent ;
- (d) the nature of the manufacturing process—
 - (i) carried on in the factory during the last twelve months in the case of factories in existence on the date of the commencement of this Act, and
 - (ii) to be carried on in the factory during the next twelve months in the case of all factories ;
- (e) the nature and quantity of power to be used ;
- (f) the name of the manager of the factory for the purposes of this Act ;

- (g) the number of workers likely to be employed in the factory ,
- (h) the average number of workers per day employed during the last twelve months in the case of a factory in existence on the date of the commencement of this Act ;
- (i) such other particulars as may be prescribed.

(2) In respect of all establishments which come within the scope of the Act for the first time, the occupier shall send a written notice to the Chief Inspector containing the particulars specified in subsection (1) within thirty days from the date of the commencement of this Act.

(3) Before a factory engaged in a manufacturing process which is ordinarily carried on for less than one hundred and eighty working days in the year resumes working, the occupier shall send a written notice to the Chief Inspector containing the particulars specified subsection (1)¹ [at least thirty days] before the date of the commencement of work.

(4) Whenever a new manager is appointed, the occupier shall send to the Chief Inspector a written notice within seven days from the date on which such person takes over charge

(5) During any period for which no person has been designated as manager of a factory or during which the person designated does not manage the factory, any person found acting as manager, or if no such person is found, the occupier himself, shall be deemed to be the manager of the factory for the purposes of this Act.

CHAPTER II

THE INSPECTING STAFF

8. Inspectors.—(1) The Provincial Government may, by notification in the Official Gazette, appoint such persons as possess the prescribed qualification to be Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit.

(2) The Provincial Government may, by notification in the Official Gazette, appoint any person to be a Chief Inspector who shall, in addition to the powers conferred on a Chief Inspector under this Act exercise the powers of an Inspector throughout the Province.

¹ These words were substituted for the words "within thirty days" by the Repealing and Amending Act, 1949 (XL of 1949).

(3) No person shall be appointed under sub-section (1), sub-section (2) or sub-section (5) or, having been so appointed, shall continue to hold office, who is or becomes directly or indirectly interested in a factory or in any process or business carried on therein or in any patent or machinery connected therewith

(4) Every District Magistrate shall be an Inspector for his district.

(5) The Provincial Government may also, by notification as aforesaid, appoint such public officers as it thinks fit to be additional Inspectors for all or any of the purposes of this Act, within such local limits as it may assign to them respectively.

(6) In any area where there are more Inspectors than one, the Provincial Government may, by notification as aforesaid, declare the powers which such Inspectors shall respectively exercise and the Inspector to whom the prescribed notices are to be sent

(7) Every Chief Inspector and Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860), and shall be officially subordinate to such authority as the Provincial Government may specify in this behalf.

9. Powers of Inspectors.—Subject to any rules made in this behalf an Inspector may, within the local limits for which he is appointed,—

- (a) enter, with such assistants, being persons in the service of the Government, or any local or other public authority, as he thinks fit, any place which is used, or which he has reason to believe is used, as a factory ;
- (b) make examination of the premises, plant and machinery, require the production of any prescribed register and any other document relating to the factory, and take on the spot or otherwise statements of any persons which he may consider necessary for carrying out the purposes of this Act.
- (c) exercise such other powers as may be prescribed for carrying out the purposes of this Act :

Provided that no person shall be compelled under this section to answer any question or give any evidence tending to incriminate himself.

10. Certifying surgeons.—(1) The Provincial Government may appoint qualified medical practitioners to be certifying surgeons for

the purposes of this Act within such local limits or for such factory or class or description of factories as it may assign to them respectively.

(2) A certifying surgeon may, with the approval of the Provincial Government, authorise any qualified medical practitioner to exercise any of his powers under this Act for such period as the certifying surgeon may specify and subject to such conditions as the Provincial Government may think fit to impose, and references in this Act to a certifying surgeon shall be deemed to include references to any qualified medical practitioner when so authorised.

(3) No person shall be appointed to be, or authorised to exercise the powers of a certifying surgeon, or having been so appointed or authorised, continue to exercise such powers, who is or becomes the occupier of a factory or is or becomes directly or indirectly interested therein or in any process or business carried on therein or in any patent or machinery connected therewith or is otherwise in the employ of the factory.

(4) The certifying surgeon shall carry out such duties as may be prescribed in connection with—

- (a) the examination and certification of young persons under this Act ;
- (b) the examination of persons engaged in factories in such dangerous occupations or processes as may be prescribed;
- (c) the exercising of such medical supervision as may be prescribed for any factory or class or description of factories where—
 - (i) cases of illness have occurred which it is reasonable to believe are due to the nature of the manufacturing process carried on, or other conditions of work prevailing, therein,
 - (ii) by reason of any change in the manufacturing process carried on or in the substances used therein or by reason of the adoption of any new manufacturing process or of any new substance for use in a manufacturing process, there is a likelihood of injury to the health of workers employed in that manufacturing process ;
 - (iii) young persons are, or are about to be, employed in any work which is likely to cause injury to their health.

Explanation—In this section “qualified medical practitioner” means a person holding a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (VII of 1916), or in the Schedules to the Indian Medical Council Act, 1933 (XXVII of 1933).

CHAPTER III

HEALTH

11. Cleanliness.—(1) Every factory shall be kept clean and free from effluvia arising from any drain, privy or other nuisance, and in particular—

- (a) accumulations of dirt and refuse shall be removed daily by sweeping or by any other effective method from the floors and benches of workrooms and from staircases and passages, and disposed of in a suitable manner ;
- (b) the floor of every workroom shall be cleaned at least once in every week by washing, using disinfectant, where necessary, or by some other effective method ;
- (c) where a floor is liable to become wet in the course of any manufacturing process to such extent as is capable of being drained, effective means of drainage shall be provided and maintained ,
- (d) all inside walls and partitions, all ceilings or tops of rooms and all walls, sides and tops of passages and staircases shall—
 - (i) where they are painted or varnished, be repainted or revarnished at least once in every period of five years ;
 - (ii) where they are painted or varnished or where they have smooth impervious surfaces, be cleaned at least once in every period of fourteen months by such method as may be prescribed ;
 - (iii) in any other case, be kept whitewashed or colour-washed, and the whitewashing or colourwashing shall be carried out at least once in every period of fourteen months ;
- (e) the dates on which the processes required by clause (d) are carried out shall be entered in the prescribed register.

(2) If, in view of the nature of the operations carried on in a factory, it is not possible for the occupier to comply with all or any of the provisions of sub-section (1), the Provincial Government may by order exempt such factory or class or description of factories from any of the provisions of that sub-section and specify alternative methods for keeping the factory in a clean state

12. Disposal of wastes and effluents.—(1) Effective arrangements shall be made in every factory for the disposal of wastes and effluents due to the manufacturing process carried on therein.

(2) The Provincial Government may make rules prescribing the arrangements to be made under sub-section (1) or requiring that the arrangements made in accordance with sub-section (1) shall be approved by such authority as may be prescribed

13. Ventilation and temperature.—(1) Effective and suitable provision shall be made in every factory for securing and maintaining in every workroom—

- (a) adequate ventilation by the circulation of fresh air, and
- (b) such a temperature as will secure to workers therein reasonable conditions of comfort and prevent injury to health ;—

and in particular,—

- (i) walls and roofs shall be of such material and so designed that such temperature shall not be exceeded but kept as low as practicable ;
- (ii) where the nature of the work carried on in the factory involves, or is likely to involve, the production of excessively high temperatures, such adequate measures as are practicable shall be taken to protect the workers therefrom, by separating the process which produces such temperatures from the workroom, by insulating the hot parts or by other effective means.

(2) The Provincial Government may prescribe a standard of adequate ventilation and reasonable temperature for any factory or class or description of factories or parts thereof and direct that a thermometer shall be provided and maintained in such place and position as may be specified.

(3) If it appears to the Provincial Government that in any factory or class or description of factories excessively high temperatures can be reduced by such methods as whitewashing, spraying or insulating

and screening outside wall, or roofs or windows, or by raising the level of the roof, or by insulating the roof either by an air-space and double roof or by the use of insulating roof materials, or by other methods, it may prescribe such of these or other methods as shall be adopted in the factory.

14. Dust and fume.—(1) In every factory in which, by reason of the manufacturing process carried on, there is given off any dust or fume or other impurity of such a nature and to such an extent as is likely to be injurious or offensive to the workers employed therein, or any dust in substantial quantities, effective measures shall be taken to prevent its inhalation and accumulation in any work-room, and if any exhaust appliance is necessary for this purpose, it shall be applied as near as possible to the point of origin of the dust, fume or other impurity, and such point shall be enclosed so far as possible

(2) In any factory no stationary internal combustion engine shall be operated unless the exhaust is conducted into the open air, and no other internal combustion engine shall be operated in any room unless effective measures have been taken to prevent such accumulation of fumes therefrom as are likely to be injurious to workers employed in the room.

15. Artificial humidification.—(1) In respect of all factories in which the humidity of the air is artificially increased, the Provincial Government may make rules,—

- (a) prescribing standards of humidification ;
- (b) regulating the methods used for artificially increasing the humidity of the air ;
- (c) directing prescribed tests for determining the humidity of the air to be correctly carried out and recorded ;
- (d) prescribing methods to be adopted for securing adequate ventilation and cooling of the air in the workrooms.

(2) In any factory in which the humidity of the air is artificially increased, the water used for the purpose shall be taken from a public supply, or other source of drinking water, or shall be effectively purified before it is so used.

(3) If it appears to an Inspector that the water used in a factory for increasing humidity which is required to be effectively purified under sub-section (2) is not effectively purified he may serve on the manager of the factory an order in writing, specifying the measures

which in his opinion should be adopted, and requiring them to be carried out before specified date.

16. Overcrowding.—(1) No room in any factory shall be overcrowded to an extent injurious to the health of the workers employed therein.

(2) Without prejudice to the generality of sub-section (1), there shall be in every workroom of a factory in existence on the date of the commencement of this Act at least three hundred and fifty cubic feet and of a factory built after the commencement of this Act at least five hundred cubic feet of space for every worker employed therein, and for the purposes of this sub-section no account shall be taken of any space which is more than fourteen feet above the level of the floor of the room.

(3) If the Chief Inspector by order in writing so requires, there shall be posted in each workroom of a factory a notice specifying the maximum number of workers who may, in compliance with the provisions of this section, be employed in the room.

(4) The Chief Inspector may by order in writing exempt subject to such conditions, if any, as he may think fit to impose, any workroom from the provisions of this section, if he is satisfied that compliance therewith in respect of the room is unnecessary in the interest of the health of the workers employed therein.

17. Lighting.—(1) In every part of a factory where workers are working or passing there shall be provided and maintained sufficient and suitable lighting, natural or artificial, or both.

(2) In every factory all glazed windows and skylights used for the lighting of the workrooms shall be kept clean on both the inner and outer surfaces and, so far as compliance with the provisions of any rules made under sub-section (3) of section 13 will allow, free from obstruction.

(3) In every factory effective provision shall, so far as is practicable, be made for the prevention of—

(a) glare, either directly from a source of light or by reflection from a smooth or polished surface ;

(b) the formation of shadows to such an extent as to cause eye-strain or the risk of accident to any worker.

(4) The Provincial Government may prescribe standards of sufficient and suitable lighting for factories or for any class or description of factories or for any manufacturing process.

18. Drinking water.—(1) In every factory effective arrangements shall be made to provide and maintain at suitable points conveniently situated for all workers employed therein a sufficient supply of wholesome drinking water.

(2) All such points shall be legibly marked "drinking water" in a language understood by a majority of the workers employed in the factory, and no such point shall be situated within twenty feet of any washing place, urinal or latrine unless a shorter distance is approved in writing by the Chief Inspector.

(3) In every factory wherein more than two hundred and fifty workers are ordinarily employed, provision shall be made for cooling drinking water during hot weather by effective means and for distribution thereof.

(4) In respect of all factories or any class or description of factories the Provincial Government may make rules for securing compliance with the provisions of sub-sections (1), (2) and (3) and for the examination by prescribed authorities of the supply and distribution of drinking water in factories.

19. Latrines and urinals.—(1) In every factory—

(a) sufficient latrine and urinal accommodation of prescribed types shall be provided conveniently situated and accessible to workers at all times while they are at the factory ;

(b) separate enclosed accommodation shall be provided for male and female workers ;

(c) such accommodation shall be adequately lighted and ventilated, and no latrine or urinal shall, unless specially exempted in writing by the Chief Inspector, communicate with any workroom except through an intervening open space or ventilated passage ;

(d) all such accommodation shall be maintained in a clean and sanitary condition at all times ;

(e) sweepers shall be employed whose primary duty it would be to keep clean latrines, urinals and washing places.

(2) In every factory wherein more than two hundred and fifty workers are ordinarily employed—

(a) all latrine and urinal accommodation shall be of prescribed sanitary types ;

(b) the floors and internal walls, up to a height of three feet, of the latrines and urinals and the sanitary blocks shall

be laid in glazed tiles or otherwise finished to provide a smooth polished impervious surface ;

- (c) without prejudice to the provisions of clauses (d) and (e) of sub-section (1), the floors, portions of the walls and blocks so laid or finished and the sanitary pans of latrines and urinals shall be thoroughly washed and cleaned at least once in every seven days with suitable detergents or disinfectants or with both

(3) The Provincial Government may prescribe the number of latrines and urinals to be provided in any factory in proportion to the numbers of male and female workers ordinarily employed therein, and provide for such further matters in respect of sanitation in factories, including the obligation of workers in this regard, as it considers necessary in the interest of the health of the workers employed therein

20. Spittoons.—(1) In every factory there shall be provided a sufficient number of spittoons in convenient places and they shall be maintained in a clean and hygienic condition.

(2) The Provincial Government may make rules prescribing the type and the number of spittoons to be provided and their location in any factory and provide for such further matters relating to their maintenance in a clean and hygienic condition.

(3) No person shall spit within the premises of a factory except in the spittoons provided for the purpose and a notice containing this provision and the penalty for its violation shall be prominently displayed at suitable places in the premises.

(4) Whoever spits in contravention of sub-section (3) shall be punishable with fine not exceeding five rupees.

CHAPTER IV

SAFETY

21. Fencing of machinery.—(1) In every factory the following, namely,—

- (i) every moving part of a prime mover and every flywheel connected to a prime mover, whether the prime mover or flywheel is in the engine house or not ;
- (ii) the headrace and tailrace of every water-wheel and water turbine ;

- (iii) any part of a stock-bar which projects beyond the head stock of a lathe ; and
- (iv) unless they are in such position or such construction as to be safe to every person employed in the factory as they would be if they were securely fenced, the following, namely—
 - (a) every part of an electric generator, a motor or rotary converter ;
 - (b) every part of transmission machinery ; and
 - (c) every dangerous part of any other machinery,

shall be securely fenced by safeguards of substantial construction which shall be kept in position while the parts of machinery they are fencing are in motion or in use :

Provided that for the purpose of determining whether any part of machinery is in such position or is of such construction as to be safe as aforesaid, account shall not be taken of any occasion when, it being necessary to make an examination of the machinery while it is in motion or, as a result of such examination, to carry out any mounting or shipping of belts, lubrication or other adjusting operation while the machinery is in motion, such examination or operation is made or carried out in accordance with the provisions of section 22.

(2) The Provincial Government may by rules prescribe such further precautions as it may consider necessary in respect of any particular machinery or part thereof, or exempt, subject to such condition as may be prescribed, for securing the safety of the workers, any particular machinery or part thereof from the provisions of this section.

22. Work on or near machinery in motion.—(1) Where in any factory it becomes necessary to examine any part of machinery referred to in section 21 while the machinery is in motion, or as a result of such examination, to carry out any mounting or shipping of belts, lubrication or other adjusting operation while the machinery is in motion, such examination or operation shall be made or carried out only by a specially trained adult male worker wearing tight fitting clothing whose name has been recorded in the register prescribed in this behalf and while he is so engaged,—

- (a) such worker shall not handle a belt at a moving pulley unless the belt is less than six inches in width and unless the belt-joint is either laced or flush with the belt ;

- (b) without prejudice to any other provision of this Act relating to the fencing of machinery, every set screw, bolt and key on any revolving shaft, spindle, wheel or pinion, and all spur, worm and other toothed or friction gearing in motion with which such worker would otherwise be liable to come into contact, shall be securely fenced to prevent such contact.

(2) No woman or child shall be allowed in any factory to clean, lubricate or adjust any part of the machinery while that part is in motion, or to work between moving parts, or between fixed and moving parts, of any machinery which is in motion.

(3) The Provincial Government may, by notification in the Official Gazette, prohibit, in any specified factory or class or description of factories, the cleaning, lubricating or adjusting by any person of specified parts of machinery when those parts are in motion.

23. Employment of young persons on dangerous machines.—

(1) No young person shall work at any machine to which this section applies, unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed and—

- (a) has received sufficient training in work at the machine, or
(b) is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

(2) Sub-section (1) shall apply to such machines as may be prescribed by the Provincial Government, being machines which in its opinion are of such a dangerous character that young persons ought not to work at them unless the foregoing requirements are complied with.

24. Striking gear and devices for cutting off power.—(1) In every factory—

- (a) suitable striking gear or other efficient mechanical appliance shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of the transmission machinery, and such gear or appliances shall be so constructed, placed and maintained as to prevent the belt from creeping back on to the fast pulley ;
(b) driving belts when not in use shall not be allowed to rest or ride upon shafting in motion.

(2) In every factory suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every work-room

Provided that in respect of factories in operation before the commencement of this Act, the provisions of this sub-section shall apply only to work-rooms in which electricity is used as power.

25. Self-acting machines.—No traversing part of a self-acting machine in any factory and no material carried thereon shall, if the space over which it runs is a space over which any person is liable to pass, whether in the course of his employment or otherwise, be allowed to run on its outward or inward traverse within a distance of eighteen inches from any fixed structure which is not part of the machine.

Provided that the Chief Inspector may permit the continued use of a machine installed before the commencement of this Act which does not comply with the requirements of this section on such conditions for ensuring safety as he may think fit to impose.

26. Casing of new machinery. (1) In all machinery driven by power and installed in any factory after the commencement of this Act,—

(a) every set screw, bolt or key on any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger ;

(b) all spur, worm and other toothed or friction gearing which does not require frequent adjustment while in motion shall be completely encased, unless it is so situated as to be as safe as it would be if it were completely encased.

(2) Whoever sells or lets on hire or, as agent of a seller or hirer, causes or procures to be sold or let on hire, for use in a factory any machinery driven by power which does not comply with the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

(3) The Provincial Government may make rules applying the provisions of this section to any particular machine or class or description of machines and specifying the types of safeguards to be provided thereon.

27. Prohibition of employment of women and children near cotton-openers.—No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work :

Provided that if the feed-end of a cotton-opener is in a room separate from the delivery end by a partition extending to the roof or to such height as the Inspector may in any particular case specify in writing, women and children may be employed on the side of the partition where the feed-end is situated

28. Hoists and lifts.—(1) In every factory—

(a) every hoist and lift shall be—

(i) of good mechanical construction, sound material and adequate strength ;

(ii) properly maintained, and shall be thoroughly examined by a competent person at least once in every period of six months, and a register shall be kept containing the prescribed particulars of every such examination ;

(b) every hoistway and liftway shall be sufficiently protected by an enclosure fitted with gates, and the hoist or lift and every such enclosure shall be so constructed as to prevent any person or thing from being trapped between any part of the hoist or lift and any fixed structure or moving part ;

(c) the maximum safe working load shall be plainly marked on every hoist or lift, and no load greater than such load shall be carried thereon ;

(d) the cage of every hoist or lift used for carrying persons shall be fitted with a gate on each side from which access is afforded to a landing.

(e) every gate referred to in clause (b) or clause (d) shall be fitted with interlocking or other efficient device to secure that the gate cannot be opened except when the cage is at the landing and that the cage cannot be moved unless the gate is closed.

(2) The following additional requirements shall apply to hoists and lifts used for carrying persons and installed or reconstructed in a factory after the commencement of this Act, namely :—

(a) where the cage is supported by rope or chain, there shall be at least two ropes or chains separately connected

with the cage and balance weight, and each rope or chain with its attachments shall be capable of carrying the whole weight of the cage together with its maximum load ;

(b) efficient devices shall be provided and maintained capable of supporting the cage together with its maximum load in the event of breakage of the rope-, chains or attachments ;

(c) an efficient automatic device shall be provided and maintained to prevent the cage from over-running

(3) The Chief Inspector may permit the continued use of a hoist or lift installed in a factory before the commencement of this Act which does not fully comply with the provisions of sub-section (1) upon such conditions for ensuring safety as he may think fit to impose.

(4) The Provincial Government may, if in respect of any class or description of hoist or lift, it is of opinion that it would be unreasonable to enforce any requirement of sub-section (1) and (2), by order direct that such requirement shall not apply to such class or description of hoist or lift.

29. Cranes and other lifting machinery.—(1) The following provisions shall apply in respect of cranes and all other lifting machinery (other than hoists and lifts) in any factory, namely —

(a) every part thereof, including the working gear, whether fixed or movable, ropes and chains and anchoring and fixing appliances shall be—

(i) of good construction, sound material and adequate strength ,—

(ii) properly maintained, and shall be thoroughly examined by a competent person at least once in every period of twelve months, and a register shall be kept containing the prescribed particulars of every such examination ;

(b) no such machinery shall be loaded beyond the safe working load which shall be plainly inscribed thereon ;

(c) while any person is employed or working on or near the wheel track of a travelling crane in any place where he would be liable to be struck by the crane, effective measures shall be taken to ensure that the crane does not approach within twenty feet of that place.

(2) The Provincial Government may make rules in respect of any lifting machinery or class or description of lifting machinery in factories—

- (a) prescribing requirements to be complied with in addition to those set out in this section ;
- (b) exempting from compliance with all or any of the requirements of this section, where in its opinion such compliance is unnecessary or impracticable.

30. Revolving machinery.—(1) In every room in a factory in which the process of grinding is carried on there shall be permanently affixed to or placed near each machine in use a notice indicating the maximum safe working peripheral speed of every grindstone or abrasive wheel, the speed of the shaft or spindle upon which the wheel is mounted, and the diameter of the pulley upon such shaft or spindle necessary to secure such safe working peripheral speed

(2) The speeds indicated in notices under sub-section (1) shall not be exceeded.

(3) Effective measures shall be taken in every factory to ensure that the safe working peripheral speed of every revolving vessel, cage, basket, flywheel, pulley, disc or similar appliance driven by power is not exceeded.

31. Pressure plant.—(1) If in any factory any part of the plant or machinery used in a manufacturing process is operated at a pressure above atmospheric pressure effective measures shall be taken to ensure that the safe working pressure of such part is not exceeded.

(2) The Provincial Government may make rules providing for the examination and testing of any plant or machinery such as is referred to in sub-section (1) and prescribing such other safety measures in relation thereto as may in its opinion be necessary in any factory or class or description of factories.

32. Floors, stairs, and means of access.—In every factory—

- (a) all floors, steps, stairs, passages and gangways shall be of sound construction and properly maintained, and where it is necessary to ensure safety, steps, stairs, passages and gangways shall be provided with substantial handrails ;
- (b) there shall, so far as is reasonably practicable, be provided and maintained safe means of access to every place at which any person is at any time required to work.

33. Pits, sumps, openings in floors, etc.—In every factory every fixed vessel, sump, tank, pit or opening in the ground or in a floor which, by reason of its depth, situation, construction or contents, is or may be a source of danger, shall be either securely covered or securely fenced

(2) The Provincial Government may, by order in writing, exempt, subject to such conditions as may be prescribed, any factory or class or description of factories in respect of any vessel, sump, tank, pit or opening from compliance with the provisions of this section

34. Excessive weights.—(1) No person shall be employed in any factory to lift, carry or move any load so heavy as to be likely to cause him injury

(2) The Provincial Government may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents and children employed in factories or in any class or description of factories or in carrying on any specified process.

35. Protection of eyes.—In respect of any such manufacturing process carried on in any factory as may be prescribed, being a process which involves—

- (a) risk of injury to the eyes from particles or fragments thrown off in the course of the process, or
- (b) risk to the eyes by reason of exposure to excessive light,—

the Provincial Government may by rules require that effective screens or suitable goggles shall be provided for the protection of persons employed on, or in the immediate vicinity of, the process.

36. Precautions against dangerous fumes.—(1) In any factory no person shall enter or be permitted to enter any chamber, tank, vat, pit, pipe, flue or other confined space in which dangerous fumes are likely to be present to such an extent as to involve risk of persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress.

(2) No portable electric light of voltage exceeding twenty-four volts shall be permitted in any factory for use inside any confined space such as is referred to in subsection (1), and where the fumes present are likely to be inflammable, no lamp or light other than of flame-proof construction shall be permitted to be used in such confined space.

(3) No person in any factory shall enter or be permitted to enter any confined space such as is referred to in sub-section (1) until all practicable measures have been taken to remove any fumes which may be present and to prevent any ingress of fumes and unless either—

(a) a certificate in writing has been given by a competent person, based on a test carried out by himself, that the space is free from dangerous fumes and fit for persons to enter, or

(b) the worker is wearing suitable breathing apparatus and a belt securely attached to a rope, the free end of which is held by a person standing outside the confined space

(4) Suitable breathing apparatus, reviving apparatus and belt and ropes shall in every factory be kept ready for instant use beside any such confined space as aforesaid which any person has entered, and all such apparatus shall be periodically examined and certified by a competent person to be fit for use ; and a sufficient number of persons employed in every factory shall be trained and practised in the use of all such apparatus and in the method of restoring respiration

(5) No person shall be permitted to enter in any factory any boiler furnace, boiler flue, chamber tank, vat, pipe or other confined space for the purpose of working or making any examination therein until it has been sufficiently cooled by ventilation or otherwise to be safe for persons to enter.

(6) The Provincial Government may make rules prescribing the minimum dimensions of the manholes referred to in sub-section (1), and may by order in writing exempt, subject to such conditions as it may think fit to impose, any factory or class or description of factories from compliance with any of the provisions of this section

37. Explosive or inflammable dust, gas, etc.—(1) Where in any factory any manufacturing process produces dust, gas, fume or vapour of such character and to such extent as to be likely to explode on ignition, all practicable measures shall be taken to prevent any such explosion by—

(a) effective enclosure of the plant or machinery used in the process ;

(b) removal or prevention of the accumulation of such dust, gas, fume or vapour ;

(c) exclusion or effective enclosure of all possible sources of ignition.

(2) Where in any factory the plant or machinery used in a process such as is referred to in sub-section (1) is not so constructed as to withstand the probable pressure which such an explosion as aforesaid would produce, all practicable measures shall be taken to restrict the spread and effects of the explosion by the provision in the plant or machinery of chokes, baffles, vents or other effective appliances

(3) Where any part of the plant or machinery in a factory contains any explosive or inflammable gas or vapour under pressure greater than atmospheric pressure, that part shall not be opened except in accordance with the following provisions, namely,—

(a) before the fastening of any joint of any pipe connected with the part or the fastening of the cover of any opening into the part is loosened, any flow of the gas or vapour into the part or any such pipe shall be effectively stopped by a stop-valve or other means,

(b) before any such fastening as aforesaid is removed, all practicable measures shall be taken to reduce the pressure of the gas or vapour in the part or pipe to atmospheric pressure,

(c) where any such fastening as aforesaid has been loosened or removed effective measures shall be taken to prevent any explosive or inflammable gas or vapour from entering the part or pipe until the fastening has been secured, or, as the case may be, securely replaced

Provided that the provisions of this sub-section shall not apply in the case of plant or machinery installed in the open air

(4) No plant, tank or vessel which contains or has contained any explosive or inflammable substance shall be subjected in any factory to any welding, brazing, soldering or cutting operation which involves the application of heat unless adequate measures have first been taken to remove such substance and any fumes arising therefrom or to render such substance and fumes non-explosive or non-inflammable, and no such substance shall be allowed to enter such plant, tank or vessel after any such operation until the metal has cooled sufficiently to prevent any risk of igniting the substance

(5) The Provincial Government may by rules exempt, subject to such conditions as may be prescribed, any factory or class or description of factories from compliance with all or any of the provisions of this section.

38. Precautions in case of fire—(1) Every factory shall be provided with such means of escape in case of fire as may be prescribed, and if it appears to the Inspector that any factory is not so provided, he may serve on the manager of the factory an order in writing specifying the measures which, in his opinion should be adopted to bring the factory into conformity with the provisions of this section and any rules made thereunder, and requiring them to be carried out before a date specified in the order.

(2) In every factory the doors affording exit from any room shall not be locked or fastened so that they cannot be easily and immediately opened from the inside while any person is within the room, and all such doors, unless they are of the sliding type, shall be constructed to open outwards

(3) In every factory, every window, door or other exit affording a means of escape in case of fire, other than the means of exit in ordinary use, shall be distinctively marked in a language understood by the majority of the workers and in red letters of adequate size or by some other effective and clearly understood sign.

(4) There shall be provided in every factory effective and clearly audible means of giving warning in case of fire to every person employed in the factory.

(5) A free passage-way giving access to each means of escape in case of fire shall be maintained for the use of all workers in every room of a factory.

(6) Effective measures shall be taken to ensure that in every factory—

(a) wherein more than twenty workers are ordinarily employed in any place above the ground floor, or

(b) wherein explosive or highly inflammable materials are used or stored.

all the workers are familiar with the means of escape in case of fire and have been adequately trained in the routine to be followed in such case.

(7) The Provincial Government may make rules prescribing, in respect to any factory or class or description of factories, the means of escape to be provided in case of fire and the nature and amount of fire-fighting apparatus to be provided and maintained.

39. Power to require specifications of defective parts or tests of stability.—If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in

a factory is in such a condition that it may be dangerous to human life or safety, he may serve on the manager of the factory an order in writing requiring him before a specified date—

- (a) to furnish such drawings, specifications and other particulars as may be necessary to determine whether such building, ways, machinery or plant can be used with safety, or
- (b) to carry out such tests in such manner as may be specified in the order, and to inform the Inspector of the results thereof

40. Safety of buildings and machinery.—(1) If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it is dangerous to human life or safety, he may serve on the manager of the factory an order in writing specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date

(2) If it appears to the Inspector that the use of any building or part of a building or any part of the ways, machinery or plant in a factory involves imminent danger to human life or safety, he may serve on the manager of the factory an order in writing prohibiting its use until it has been properly repaired or altered

41. Power to make rules to supplement this Chapter.—The Provincial Government may make rules requiring the provision in any factory or in any class or description of factories of such further devices for securing the safety of persons employed therein as it may deem necessary.

CHAPTER V

WELFARE

42. Washing facilities.—(1) In every factory—

- (a) adequate and suitable facilities for washing shall be provided and maintained for the use of the workers therein ;
- (b) separate and adequately screened facilities shall be provided for the use of male and female workers ;
- (c) such facilities shall be conveniently accessible and shall be kept clean.

(2) The Provincial Government may, in respect of any factory or class or description of factories or of any manufacturing process, prescribe standards of adequate and suitable facilities for washing.

43. Facilities for storing and drying clothing.—The Provincial Government may, in respect of any factory or class or description of factories, make rules requiring the provision therein of suitable places for keeping clothing not worn during working hours and for the drying of wet clothing.

44. Facilities for sitting.—(1) In every factory suitable arrangements for sitting shall be provided and maintained for all workers obliged to work in a standing position, in order that they may take advantage of any opportunities for rest which may occur in the course of their work.

(2) If, in the opinion of the Chief Inspector, the workers in any factory engaged in a particular manufacturing process or working in a particular room are able to do their work efficiently in a sitting position, he may, by order in writing, require the occupier of the factory to provide before a specified date such seating arrangements as may be practicable for all workers so engaged or working.

(3) The Provincial Government may, by notification in the official Gazette, declare that the provisions of sub-section (1) shall not apply to any specified factory or class or description of factories or to any specified manufacturing process.

45. First-aid appliances.—(1) There shall in every factory be provided and maintained so as to be readily accessible during all working hours first-aid boxes or cupboards equipped with the prescribed contents, and the number of such boxes or cupboards to be provided and maintained shall not be less than one for every one hundred and fifty workers ordinarily employed in the factory.

(2) Nothing except the prescribed contents shall be kept in the boxes and cupboards referred to in sub-section (1), and all such boxes and cupboards shall be kept in the charge of a responsible person who is trained in first-aid treatment and who shall always be available during the working hours of the factory.

(3) In every factory wherein more than five hundred workers are employed there shall be provided and maintained an ambulance room of the prescribed size, containing the prescribed equipment and in the charge of such medical and nursing staff as many be prescribed.

46. Canteens.—(1) The Provincial Government may make rules requiring that in any specified factory wherein more than two

hundred and fifty workers are ordinarily employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the date by which such canteen shall be provided ,
- (b) the standards in respect of construction, accommodation, furniture and other equipment of the canteen ,
- (c) the foodstuffs to be served therein and the charges which may be made therefor ;
- (d) the constitution of a managing committee for the canteen and representation of the workers in the management of the canteen ,
- (e) the delegation to the Chief Inspector, subject to such conditions as may be prescribed, of the power to make rules under clause (c).

47. Shelters, rest rooms and lunch rooms.—(1) In every factory wherein more than one hundred and fifty workers are ordinarily employed, adequate and suitable shelters or rest rooms and a suitable lunch room, with provision for drinking water, where workers can eat meals brought by them, shall be provided and maintained for the use of the workers .

Provided that any canteen maintained in accordance with the provisions of section 46 shall be regarded as part of the requirements of this sub-section .

Provided further that where a lunch room exists no worker shall eat any food in the work room.

(2) The shelters or rest rooms or lunch rooms to be provided under sub-section (1) shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.

(3) The Provincial Government may—

- (a) prescribe the standards in respect of construction, accommodation, furniture and other equipment of shelters, rest rooms and lunch rooms to be provided under this section ;
- (b) by notification in the official Gazette, exempt any factory or class or description of factories from the requirements of this section.

48. Creches. —(1) In every factory wherein more than fifty women workers are ordinarily employed there shall be provided and

maintained a suitable room or rooms for the use of children under the age of six years of such women.

(2) Such rooms shall provide adequate accommodation, shall be adequately lighted and ventilated, shall be maintained in a clean and sanitary condition and shall be under the charge of women trained in the care of children and infants.

(3) The Provincial Government may make rules—

- (a) prescribing the location and the standards in respect of construction, accommodation, furniture and other equipment of rooms to be provided under this section ;
- (b) requiring the provision in factories to which this section applies of additional facilities for the care of children belonging to women workers, including suitable provision of facilities for washing and changing their clothing ;
- (c) requiring the provision in any factory of free milk or refreshment or both for such children ;
- (d) requiring that facilities shall be given in any factory for the mothers of such children to feed them at the necessary intervals.

49. Welfare officers.—(1) In every factory wherein five hundred or more workers are ordinarily employed the occupier shall employ in the factory such number of welfare officers as may be prescribed.

(2) The Provincial Government may prescribe the duties, qualifications and conditions of service of officers employed under subsection (1).

50. Power to make rules to supplement this Chapter.—The Provincial Government may make rules—

- (a) exempting, subject to compliance with such alternative arrangements for the welfare of workers as may be prescribed, any factory or class or description of factories from compliance with any of the provisions of this Chapter ;
- (b) requiring in any factory or class or description of factories that representatives of the workers employed in the factory shall be associated with the management of the welfare arrangements of the workers.

CHAPTER VI

WORKING HOURS OF ADULTS

51. Weekly hours.—No adult worker shall be required or allowed to work in a factory for more than forty-eight hours in any week

52. Weekly holidays.—(1) No adult worker shall be required or allowed to work in a factory on the first day of the week (hereinafter referred to as the said day), unless—

- (a) he has or will have a holiday for a whole day on one of the three days immediately before or after the said day, and
- (b) the manager of the factory has, before the said day or the substituted day under clause (a), whichever is earlier,—
 - (i) delivered a notice at the office of the Inspector of his intention to require the worker to work on the said day and of the day which is to be substituted, and
 - (ii) displayed a notice to that effect in the factory

Provided that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day

(2) Notices given under sub-section (1) may be cancelled by a notice delivered at the office of the Inspector and a notice displayed in the factory not later than the day before the said day or the holiday to be cancelled, whichever is earlier.

(3) Where, in accordance with the provisions of sub-section (1), any worker works on the said day and has had a holiday on one of the three days immediately before it, that said day shall, for the purpose of calculating his weekly hours of work, be included in the preceding week.

53. Compensatory holidays.—(1) Where, as a result of the passing of an order or the making of a rule under the provisions of this Act exempting a factory or the workers therein from the provisions of section 52, a worker is deprived of any of the weekly holidays for which provision is made in sub-section (1) of that section, he shall be allowed, within the month in which the holidays were due to him or within the two months immediately following that month, compensatory holidays of equal number to the holidays so lost.

(2) The Provincial Government may prescribe the manner in which the holidays for which provision is made in sub-section (1) shall be allowed

54. Daily hours.—Subject to the provisions of section 51, no adult worker shall be required or allowed to work in a factory for more than nine hours in any day

55. Intervals for rest.—¹[The periods of work] of adult workers in a factory each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he had an interval for rest of at least half an hour

56. Spreadover.—The periods of work of an adult worker in a factory shall be so arranged that inclusive of his intervals for rest under section 55, they shall not spread over more than ten and a half hours in any day

Provided that the Chief Inspector may, for reasons to be specified in writing, increase the spreadover to twelve hours

57. Night shifts.—Where a worker in a factory works on a shift which extends beyond midnight,—

(a) for the purposes of sections 52 and 53, a holiday for a whole day shall mean in his case a period of twenty-four consecutive hours beginning when his shift ends;

(b) the following day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted in the previous day.

58. Prohibition of overlapping shifts.—(1) Work shall not be carried on in any factory by means of a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time.

(2) The Provincial Government may, subject to such conditions as may be prescribed, make rules exempting any factory or class or description of factories from the provisions of sub-section (1).

59. Extra wages for overtime.—(1) Where a worker works in a factory for more than nine hours in any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages at the rate of twice his ordinary rate of wages

(2) Where any workers in a factory are paid on a piece rate basis, the Provincial Government, in consultation with the employer

¹ These words were substituted for the words "The period" by the Repealing and Amending Act, 1949 (XL of 1949)

concerned, and the representatives of the workers shall, for the purposes of this section, fix time rates as nearly as possible equivalent to the average rate of earnings of those workers, and the rates so fixed shall be deemed to be the ordinary rates of wages of those workers

(3) For the purposes of this section, "ordinary rate of wages" means the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, but does not include a bonus

(4) The Provincial Government may prescribe the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section

60. Restriction on double employment.—No adult worker shall be required or allowed to work in any factory on any day on which he has already been working in any other factory, save in such circumstances as may be prescribed.

61. Notice of periods of work for adults—(1) There shall be displayed and correctly maintained in every factory in accordance with the provisions of sub-section (2) of section 108, a notice of periods of work for adults, showing clearly for every day the periods during which adult workers may be required to work

(2) The periods shown in the notice required by sub-section (1) shall be fixed beforehand in accordance with the following provisions of this section, and shall be such that workers working for those periods would not be working in contravention of any of the provisions of sections 51, 52, 54, 55 and 56.

(3) Where all the adult workers in a factory are required to work during the same periods, the manager of the factory shall fix those periods for such workers generally

(4) Where all the adult workers in a factory are not required to work during the same periods, the manager of the factory shall classify them into groups according to the nature of their work indicating the number of workers in each group.

(5) For each group which is not required to work on a system of shifts, the manager of the factory shall fix the periods during which the group may be required to work.

(6) Where any group is required to work on a system of shifts and the relays are not to be subject to predetermined periodical

changes of shifts, the manager of the factory shall fix the periods during which each relay of the group may be required to work

(7) Where any group is to work on a system of shifts and the relays are to be subject to predetermined periodical changes of shifts, the manager of the factory shall draw up a scheme of shifts whereunder the periods during which any relay of the group may be required to work and the relay which will be working at any time of the day shall be known for any day.

(8) The Provincial Government may prescribe forms of the notice required by sub-section (1) and the manner in which it shall be maintained

(9) In the case of a factory beginning work after the commencement of this Act, a copy of the notice referred to in sub-section (1) shall be sent in duplicate to the Inspector before the day on which work is begun in the factory.

(10) Any proposed change in the system of work in any factory which will necessitate a change in the notice referred to in sub-section (1) shall be notified to the Inspector in duplicate before the change is made, and except with the previous sanction of the Inspector, no such change shall be made until one week has elapsed since the last change.

62. Register of adult workers.—(1) The manager of every factory shall maintain a register of adult workers, to be available to the Inspector at all times during working hours, or when any work is being carried on in the factory, showing—

- (a) the name of each adult worker in the factory ;
- (b) the nature of his work ;
- (c) the group, if any, in which he is included ;
- (d) where his group works on shifts, the relay to which he is allotted ;
- (e) such other particulars as may be prescribed :

Provided that, if the Inspector is of opinion that any muster roll or register maintained as part of the routine of a factory gives in respect of any or all the workers in the factory the particulars required under this section, he may, by order in writing direct that such muster roll or register shall to the corresponding extent be maintained in place of, and be treated as, the register of adult workers in that factory.

(2) The Provincial Government may prescribe the form of the register of adult workers, the manner in which it shall be maintained and the period for which it shall be preserved.

62. Hours of work to correspond with notice under section 61 and register under section 62.—No adult worker shall be required or allowed to work in any factory otherwise than in accordance with the notice of periods of work for adults displayed in the factory and the entries made beforehand against his name in the register of adult workers of the factory.

64. Power to make exempting rules.—(1) The Provincial Government may make rules defining the persons who hold positions of supervision or management or are employed in a confidential position in a factory, and the provisions of this Chapter, other than the provisions of clause (b) of sub-section (1) of section 66 and of the proviso to that sub-section, shall not apply to any person so defined.

(2) The Provincial Government may make rules in respect of adult workers in factories providing for the exemption, to such extent and subject to such conditions as may be prescribed—

- (a) of workers engaged on urgent repairs, from the provisions of sections 51, 52, 54, 55 and 56 ;
- (b) of workers engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory, from the provisions of sections 51, 54, 55 and 56 ;
- (c) of workers engaged in work which is necessarily so intermittent that the intervals during which they do not work while on duty ordinarily amount to more than the intervals for rest required by or under section 55, from the provisions of sections 51, 54, 55 and 56 ;
- (d) of workers engaged in any work which for technical reasons must be carried on continuously throughout the day, from the provisions of sections 51, 52, 54, 55 and 56 ;
- (e) of workers engaged in making or supplying articles of prime necessity which must be made or supplied every day, from the provisions of section 52 ;
- (f) of workers engaged in a manufacturing process which cannot be carried on except during fixed seasons from the provisions of section 52 ;

(g) of workers engaged in a manufacturing process which cannot be carried on except at times dependent on the irregular action of natural forces, from the provisions of sections 52 and 55,

(h) of workers engaged in engine-rooms or boiler-houses or in attending to power-plant or transmission machinery, from the provisions of section 52

(3) Rules made under sub-section (2) providing for any exemption may also provide for any consequential exemption from the provisions of section 61 which the Provincial Government may deem to be expedient, subject to such conditions as it may prescribe

(4) In making rules under this section, the Provincial Government shall not exceed, except in respect of exemption under clause (a) of sub-section (2), the following limits of work inclusive of overtime —

(i) the total number of hours of work in any day shall not exceed ten,

(ii) the total number of hours of overtime work shall not exceed fifty for any one quarter,

Explanation —“Quarter” means a period of three consecutive months beginning on the 1st of January, the 1st of April, the 1st of July or the 1st of October;

(iii) the spreadover inclusive of intervals for rest shall not exceed twelve hours in any one day

Provided that, subject to the previous approval of the Chief Inspector, the daily maximum specified in section 54 may be exceeded in order to facilitate the change of shifts

(5) Rules made under this section shall remain in force for not more than three years

65. Power to make exempting orders.—(1) Where the Provincial Government is satisfied that, owing to the nature of the work carried on or to other circumstances, it is unreasonable to require that the periods of work of any adult workers in any factory or class or description of factories should be fixed beforehand, it may, by written order, relax or modify the provisions of section 61 in respect of such workers therein, to such extent and in such manner as it may think fit, and subject to such conditions as it may deem expedient to ensure control over periods of work.

(2) The Provincial Government or, subject to the control of the Provincial Government, the Chief Inspector, may by written order

exempt, on such conditions as it or he may deem expedient, any or all of the adult workers in any factory or group or class or description of factories from any or all of the provisions of sections 51, 52, 54 and 56 on the ground that the exemption is required to enable the factory or factories to deal with an exceptional press of work

(3) Any exemption given under sub-section (2) in respect of weekly hours of work shall be subject to the maximum limits prescribed under sub-section (4) of section 64

(4) No factory shall be exempted under sub-section (2) for a period or periods exceeding in the aggregate three months in any year.

66. Further restrictions on employment of women.—(1) The provisions of this Chapter shall, in their application to women in factories, be supplemented by the following further restrictions, namely —

(a) no exemption from the provisions of section 54 may be granted in respect of any woman ;

(b) no woman shall be employed in any factory except between the hours of 6 A M and 7 P.M

Provided that the Provincial Government may, by notification in the official Gazette, in respect of any class or description of factories, vary the limits laid down in clause (b), but so that no such variation shall authorise the employment of any woman between the hours of 10 P M and 5 A M

(2) The Provincial Government may make rules providing for the exemption from the restriction set out in sub-section (1), to such extent and subject to such conditions as it may prescribe, of women working in fish-curing or fish-canning factories, where the employment of women beyond the hours specified in the said restrictions is necessary to prevent damage to, or deterioration in, any raw material.

(3) The rules made under sub-section (2) shall remain in force for not more than three years at a time

CHAPTER VII

EMPLOYMENT OF YOUNG PERSONS

67. Prohibition of employment of young children.—No child who has not completed his fourteenth year shall be required or allowed to work in any factory.

68. Non-adult workers to carry tokens.—A child who has completed his fourteenth year or an adolescent shall not be required or allowed to work in any factory unless—

- (a) a certificate of fitness granted with reference to him under section 69 is in the custody of the manager of the factory, and
- (b) such child or adolescent carries while he is at work a token giving a reference to such certificate

69. Certificates of fitness.—(1) A certifying surgeon shall, on the application of any young person or his parent or guardian accompanied by a document signed by the manager of a factory that such person will be employed therein if certified to be fit for work in a factory, or on the application of the manager of the factory in which any young person wishes to work examine such person and ascertain his fitness for work in a factory.

(2) The certifying surgeon, after examination, may grant to such young person, in the prescribed form, or may renew—

- (a) a certificate of fitness to work in a factory as a child, if he is satisfied that the young person has completed his fourteenth year, that he has attained the prescribed physical standards and that he is fit for such work
- (b) a certificate of fitness to work in a factory as an adult, if he is satisfied that the young person has completed his fifteenth year and is fit for a full days' work in a factory

Provided that unless the certifying surgeon has personal knowledge of the place where the young person proposes to work and of the manufacturing process in which he will be employed, he shall not grant or renew a certificate under this sub-section until he has examined such place

(3) A certificate of fitness granted or renewed under sub-section (2)—

- (a) shall be valid only for a period of twelve months from the date thereof ;

(b) may be made subject to conditions in regard to the nature of the work in which the young person may be employed, or requiring re-examination of the young person before the expiry of the period of twelve months

(4) A certifying surgeon shall revoke any certificate granted or renewed under sub-section (2) if in his opinion the holder of it is no longer fit to work in the capacity stated therein in a factory

(5) Where a certifying surgeon refuses to grant or renew a certificate or a certificate of the kind requested or revokes a certificate, he shall, if so requested by any person who could have applied for the certificate or the renewal thereof, state his reasons in writing for so doing

(6) Where a certificate under this section with reference to any young person is granted or renewed subject to such conditions as are referred to in clause (b) of sub-section (3), the young person shall not be required or allowed to work in any factory except in accordance with those conditions

(7) Any fee payable for a certificate under this section shall be paid by the occupier and shall not be recoverable from the young person, his parents or guardian

70. Effect of certificate of fitness granted to adolescent.—

(1) An adolescent who has been granted a certificate of fitness to work in a factory as an adult under clause (b) of sub-section (2) of section 69, and who while at work in a factory carries a token giving reference to the certificate, shall be deemed to be an adult for all the purposes of Chapters VI and VIII

(2) An adolescent who has not been granted a certificate of fitness to work in a factory as an adult under the aforesaid clause (b) shall, notwithstanding his age, be deemed to be a child for all the purposes of this Act

71. Working hours for children.—(1) No child shall be employed or permitted to work, in any factory—

(a) for more than four and a half hours in any day ;

(b) between the hours of 7 P.M. and 6 A.M.

(2) The period of work of all children employed in a factory shall be limited to two shifts which shall not overlap or spread over more than five hours each ; and each child shall be employed in only one of the relays which shall not, except with the previous per-

mission in writing of the Chief Inspector, be changed more frequently than once in a period of thirty days

(3) The provisions of section 52 shall apply also to child workers, and no exemption from the provisions of that section may be granted in respect of any child

(4) No child shall be required or allowed to work in any factory on any day on which he has already been working in another factory

72. Notice of periods of work for children.—(1) There shall be displayed and correctly maintained in every factory in which children are employed, in accordance with the provisions of sub-section (2) of section 108 a notice of periods of work for children, showing clearly for every day the periods during which children may be required or allowed to work.

(2) The periods shown in the notice required by sub-section (1) shall be fixed beforehand in accordance with the method laid down for adult workers in section 61, and shall be such that children working for those periods would not be working in contravention of any of the provisions of section 71

(3) The provisions of sub-sections (8), (9) and (10) of section 61 shall apply also to the notice required by sub-section (1) of this section

73. Register of child workers.—(1) The manager of every factory in which children are employed shall maintain a register of child workers, to be available to the Inspector at all times during working hours or when any work is being carried on in a factory, showing—

- (a) the name of each child worker in the factory,
- (b) the nature of his work,
- (c) the group, if any, in which he is included,
- (d) where his group works on shifts, the relay to which he is allotted and
- (e) the number of his certificate of fitness granted under section 69.

(2) The Provincial Government may prescribe the form of the register of child workers, the manner in which it shall be maintained and the period for which it shall be preserved."

74. Hours of work to correspond with notice under section 72 and register under section 73.—No child shall be employed in any factory otherwise than in accordance with the notice of periods

of work for children displayed in the factory and the entries made beforehand against his name in the register of child workers of the factory

75. Power to require medical examination.—Where an Inspector is of opinion—

- (a) that any person working in a factory without a certificate of fitness is a young person, or
- (b) that a young person working in a factory with a certificate of fitness is no longer fit to work in the capacity stated therein,—

he may serve on the manager of the factory a notice requiring that such person or young person, as the case may be, shall be examined by a certifying surgeon, and such person or young person shall not, if the Inspector so directs, be employed, or permitted to work, in any factory until he has been so examined and has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be, under section 69, or has been certified by the certifying surgeon examining him not to be a young person

76. Power to make rules.—The Provincial Government may make rules—

- (a) prescribing the forms of certificates of fitness to be granted under section 69, providing for the grant of duplicates in the event of loss of the original certificates, and fixing the fees which may be charged for such certificates and renewals thereof and such duplicates ,
- (b) prescribing the physical standards to be attained by children and adolescents working in factories ;
- (c) regulating the procedure of certifying surgeons under this Chapter ;
- (d) specifying other duties which certifying surgeons may be required to perform in connection with the employment of young persons in factories, and fixing the fees which may be charged for such duties and the persons by whom they shall be payable

77. Certain other provisions of law not barred.—The provisions of this Chapter shall be in addition to, and not in derogation of, the provisions of the Employment of Children Act, 1938 (XXVI of 1938)

CHAPTER VIII

LEAVE WITH WAGES

78. Application of Chapter.—(1) The provisions of this Chapter shall not operate to the prejudice of any rights to which a worker may be entitled under any other law or under the terms of any award, agreement or contract of service

Provided that where such award, agreement or contract of service provides for a longer leave with wages than provided in this Chapter the worker shall be entitled only to such longer leave

Explanation—For the purpose of this Chapter leave shall not, except as provided in section 79, include weekly holidays or holidays for festivals or other similar occasions

(2) The provisions of this Chapter shall not apply to any workshop of a Federal Railway.

79. Annual leave with wages.—(1) Every worker who has completed a period of twelve months continuous service in a factory shall be allowed during the subsequent period of twelve months' leave with wages for a number of days calculated at the rate of—

- (i) if an adult, one day for every twenty days of work performed by him during the previous period of twelve months subject to a minimum of ten days, and
- (ii) if a child, one day for every fifteen days of work performed by him during the previous period of twelve months subject to a minimum of fourteen days

Provided that a period of leave shall be inclusive of any holiday which may occur during such period

Provided further that where the employment of a worker who has completed a period of four months' continuous service in a factory is terminated before he has completed a period of twelve months' continuous service, he shall be deemed to have become entitled to leave for the number of days which bears to the number of days specified in this sub-section the same proportion as the period of his continuous service bears to the continuous service of twelve months and the occupier of the factory shall pay to him the amount payable under section 80 in respect of the leave to which he is deemed to have become entitled.

(2) If a worker does not in any one such period of twelve months take the whole of the leave allowed to him under sub-section (1),

any leave not taken by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months :

Provided that the total number of days of leave which may be carried forward to a succeeding period shall not exceed fifteen in the case of an adult or twenty in the case of a child :

Provided further that a worker who has applied for leave with wages but has not been given such leave in accordance with any scheme drawn up under sub-sections (4) and (5), shall be entitled to carry forward the unavailed leave without any limit.

(3) A worker may in any such period of twelve months apply in writing to the manager of the factory, not less than fifteen full working days before the date on which he wishes his leave to begin, to take all the leave or any portion thereof, allowable to him during that period under sub-section (1) and (2)

Provided that the number of instalments in which the leave is proposed to be taken shall not exceed three

Provided further that the application shall be made not less than thirty full working days before the date on which the worker wishes his leave to begin, if he is employed in a public utility service as defined in clause (n) of section 2 of the Industrial Disputes Act, 1947 (XIV of 1947).

(4) ¹[For the purpose] of ensuring the continuity of work in a factory, the occupier or manager of the factory, in agreement with the Works Committee of the factory constituted under section 3 of the Industrial Disputes Act, 1947 (XIV of 1947) or a similar committee constituted under any other Act, or if there is no such Works Committee or a similar committee in the factory the occupier or the manager of the factory in agreement with the representatives of the workers therein chosen in the prescribed manner, may lodge with the Chief Inspector a scheme in writing whereby the leave allowable under this section may be regulated.

(5) A scheme lodged under sub-section (4) shall be posted in convenient places in the factory and shall be in force for a period of twelve months from the date on which it is lodged with the Chief Inspector, and may thereafter be renewed, with or without modification, for a further period of twelve months at a time, by the

¹ These words were substituted for the words "If, for the purpose" by the Repealing and Amending Act, 1944 (XI of 1949)

manager in agreement with the Works Committee or a similar committee or, as the case may be, by the manager of the factory in agreement with the representatives of the workers as specified in sub-section (4).

(6) An application for leave which does not contravene the provisions of sub-section (3) shall not be refused unless the refusal is in accordance with a scheme for the time being in operation under sub-sections (4) and (5)

(7) if a worker entitled to leave under sub-sections (1) and (2) is discharged from the factory before he has taken the entire leave to which he is entitled, or if, having applied for and having not been granted such leave, he quits his employment before he has taken the leave, the occupier of the factory shall pay him the amount payable under section 80 in respect of the leave not taken and such payment shall be made before the expiry of the second working day after the day on which his employment is terminated

Explanation 1—For the purposes of this section a worker shall be deemed to have completed a period of continuous service in a factory, notwithstanding any interruption in service during that period brought about by—

- (i) sickness, accident or authorised leave not exceeding in the aggregate one-sixth of the period, or
- (ii) a strike which is not an illegal strike or a lock out, or
- (iii) one or more periods of involuntary unemployment not exceeding in the aggregate one-twelfth of the period, or
- (iv) leave admissible or granted under any other law

Explanation 2—“Authorised leave” shall include any casual absence due to any reasonable cause :

Provided that the worker within a week from the commencement of the absence gives the reasons for the absence in writing to the manager of the factory, and may include periods of unauthorised leave, not exceeding in the aggregate one-thirty-sixth of the period of continuous service, but shall not include any weekly holiday allowed under section 52 which occurs at the beginning or end of an interruption brought about by the leave.

Explanation 3.—“Illegal strike” means a strike which is illegal within the meaning of section 24 of the Industrial Disputes Act, 1947 (XIV of 1947) or of any other law for the time being in force relating to industrial disputes.

80. Wages during leave period.—For the leave allowed to him under section 79 a worker shall be paid at a rate equal to the daily average of his total full-time earnings, exclusive of any overtime earnings and bonus, but inclusive of dearness allowance and the cash equivalent of any advantage accruing by the sale, by the employer, of foodgrains and other articles at concessional rates, for the days on which he worked during the month immediately preceding his leave

81. Payment in advance in certain cases.—A worker who has been allowed leave for not less than four days in the case of an adult and five days in the case of a child under section 79 shall, before his leave begins, be paid the wages due for the period of the leave allowed

82. Power of Inspector to act for worker.—Any Inspector may institute proceedings on behalf of any ¹[worker] to recover any sum required to be paid by an employer under this Chapter which the employer has not paid

83. Power to make rules.—The Provincial Government may prescribe the keeping by managers of factories of registers showing such particulars as may be prescribed and requiring such registers to be made available for examination by Inspectors.

84. Power to exempt factories.—Where the Provincial Government is satisfied that the leave rules applicable to workers in a factory provide benefits which in its opinion are not less favourable than those for which this Chapter makes provision, it may, by written order, exempt the factory from all or any of the provisions of this Chapter, subject to such conditions as may be specified in the order.

CHAPTER IX

SPECIAL PROVISIONS

85. Power to apply the Act to certain premises.—(1) The Provincial Government may, by notification in the official Gazette, declare that all or any of the provisions of this Act shall apply to any place wherein a manufacturing process is carried on with or

¹This word was substituted for the word "workers", ibid

without the aid of power or is so ordinarily carried on, notwithstanding that—

- (i) the number of persons employed therein is less than ten, if working with the aid of power and less than twenty if working without the aid of power, or
- (ii) the persons working therein are not employed by the owner thereof but are working with the permission of, or under agreement with, such owner

Provided that the manufacturing process is not being carried on by the owner only with the aid of his family

(2) After a place is so declared, it shall be deemed to be a factory for the purposes of this Act, and the owner shall be deemed to be the occupier, and any person working therein, a worker

Explanation.—For the purposes of this section, “owner” shall include a lessee or mortgagee with possession of the premises.

86. Power to exempt public institutions.—The Provincial Government may exempt, subject to such conditions as it may consider necessary, any workshop or workplace where a manufacturing process is carried on and which is attached to a public institution maintained for the purposes of education, training or reformation, from all or any of the provisions of this Act

Provided that no exemption shall be granted from the provisions relating to hours of work and holidays, unless the persons having the control of the institution submit, for the approval of the Provincial Government, a scheme for the regulation of the hours of employment, intervals for meals, and holidays of the persons employed in or attending the institution or who are inmates of the institution, and the Provincial Government is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions of this Act

87. Dangerous operations.—Where the Provincial Government is of opinion that any operation carried on in a factory exposes any persons employed in it to a serious risk of bodily injury, poisoning or disease, it may make rules applicable to any factory or class or description of factories in which the operation is carried on—

- (a) specifying the operation and declaring it to be dangerous ;
- (b) prohibiting or restricting the employment of women, adolescents or children in the operation ;
- (c) providing for the periodical medical examination of persons employed, or seeking to be employed, in the operation.

and prohibiting the employment of persons not certified as fit for such employment ,

(d) providing for the protection of all persons employed in the operation or in the vicinity of the places where it is carried on ,

(e) prohibiting, restricting or controlling the use of any specified materials or processes in connection with the operation

88. Notice of certain accidents.—Where in any factory an accident occurs which causes death, or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such nature as may be prescribed in this behalf, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed

89. Notice of certain diseases.—(1) Where any worker in a factory contracts any disease specified in the Schedule, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed

(2) If any medical practitioner attends on a person who is or has been employed in a factory, and who is, or is believed by the medical practitioner to be, suffering from any disease specified in the Schedule, the medical practitioner shall without delay send a report in writing to the office of the Chief Inspector stating—

(a) the name and full postal address of the patient,

(b) the disease from which he believes the patient to be suffering, and

(c) the name and address of the factory in which the patient is, or was last, employed

(3) Where the report under sub-section (2) is confirmed to the satisfaction of the Chief Inspector, by the certificate of a certifying surgeon or otherwise, that the person is suffering from a disease specified in the Schedule, he shall pay to the medical practitioner such fee as may be prescribed, and the fee so paid shall be recoverable as an arrear of land-revenue from the occupier of the factory in which the person contracted the disease.

(4) If any medical practitioner fails to comply with the provisions of sub-section (2), he shall be punishable with fine which may extend to fifty rupees

90. Power to direct enquiry into cases of accident or disease.—(1) The Provincial Government may, if it considers it expedient so to do, appoint a competent person to inquire into the causes of any accident occurring in a factory or into any case where a disease specified in the Schedule has been, or is suspected to have been, contracted in a factory, and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.

(2) The person appointed to hold an inquiry under this section shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects, and may also, so far as may be necessary for the purposes of the inquiry, exercise any of the powers of an Inspector under this Act ; and every person required by the person making the inquiry to furnish any information shall be deemed to be legally bound so to do within the meaning of section 176 of the Indian Penal Code (XLV of 1860)

(3) The person holding an inquiry under this section shall make a report to the Provincial Government stating the causes of the accident, or as the case may be, disease, and any attendant circumstances, and adding any observations which he or any of the assessors may think fit to make

(4) The Provincial Government may, if it thinks fit, cause to be published any report made under this section or any extracts therefrom.

(5) The Provincial Government may make rules for regulating the procedure at inquiries under this section

91. Power to take samples.—(1) An Inspector may at any time during the normal working hours of a factory, after informing the occupier or manager of the factory or other person for the time being purporting to be in charge of the factory, take in the manner hereinafter provided a sufficient sample of any substance used or intended to be used in the factory, such use being—

(a) in the belief of the Inspector in contravention of any of the provisions of this Act or the rules made thereunder, or

(b) in the opinion of the Inspector likely to cause bodily injury to, or injury to the health of, workers in the factory.

(2) Where the Inspector takes a sample under sub-section (1), he shall, in the presence of the person informed under that sub-section unless such person wilfully absents himself, divide the sample into three portions and effectively seal and suitably mark them, and shall permit such person to add his own seal and mark thereto

(3) The person informed as aforesaid shall, if the Inspector so requires, provide the appliances for dividing, sealing and marking the sample taken under this section.

(4) The Inspector shall—

(a) forthwith give one portion of the sample to the person informed under sub-section (1) ;

(b) forthwith send the second portion to a Government Analyst for analysis and report thereon ,

(c) retain the third portion for production to the Court before which proceedings, if any, are instituted in respect of the substance

(5) Any document purporting to be a report under the hand of any Government Analyst upon any substance submitted to him for analysis and report under this section, may be used as evidence in any proceedings instituted in respect of the substance

CHAPTER X

PENALTIES AND PROCEDURE

92. General penalty for offences.—Save as is otherwise expressly provided in this Act and subject to the provisions of section 93, if in, or in respect of, any factory there is any contravention of any of the provisions of this Act or of any rule made thereunder or of any order in writing given thereunder, the occupier and manager of the factory shall each be guilty of an offence and punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both, and if the contravention is continued after conviction, with a further fine which may extend to seventy-five rupees for each day on which the contravention is so continued

93. Liability of owner of premises in certain circumstances.—Where in any premises separate buildings, or in any building separate parts of the building or separate parts of any room therein are leased or occupied by different persons in such a manner as to constitute

separate factories, the owner of the premises or building, as the case may be, shall be liable, in the stead of the occupier of the factory for any contravention in, or in respect of, any part of the premises or building which is used as a factory, of—

- (a) the provisions of Chapter III or of any rules made thereunder ,
- (b) the provisions of Chapter IV or of any rules made thereunder, except in so far as they relate to plant or machinery belonging to or supplied by the occupier of the factory ,
- (c) the provisions of Chapter V or of any rules made thereunder, and in computing for the purposes of any of the provisions mentioned in this clause the number of workers employed, the whole of the premises or building, as the case may be, shall be deemed to be a single factory

Provided that—

- (i) the provisions of this section shall not apply to, or in respect of, any building or room in the sole occupation of the occupier of a factory ,
- (ii) the aforesaid owner shall be liable for any contravention of any of the provisions of this Act or of the rules made thereunder relating to the cleanliness of sanitary conveniences only when those conveniences are used by workers of more than one occupier ;
- (iii) the aforesaid owner shall be liable for any contravention of any of the provisions of this Act or of the rules made thereunder relating to hoists and lifts, and means of escape and safety precautions in case of fire, only in so far as the said provisions relate to things under his control.

94. Enhanced penalty after previous conviction.—If any person who has been convicted of any offence punishable under section 92 is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both

Provided that for the purposes of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished

95. Penalty for obstructing Inspector.—Whoever wilfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act, or fails to produce on demand by an Inspector any registers or other documents in his custody kept in pursuance of this Act or of any rules made thereunder, or conceals or prevents any worker in a factory from appearing before, or being examined by, an Inspector, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both

96. Penalty for wrongfully disclosing results of analysis under section 91.—Whoever, except in so far as it may be necessary for the purposes of a prosecution for any offence punishable under this Act, publishes or discloses to any person the results of an analysis made under section 91, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both

97. Offences by workers.—(1) Subject to the provisions of section 111, if any worker employed in a factory contravenes any provision of this Act or any rules or orders made thereunder, imposing any duty or liability on workers, he shall be punishable with fine which may extend to twenty rupees

(2) Where a worker is convicted of an offence punishable under sub-section (1), the occupier or manager of the factory shall not be deemed to be guilty of an offence in respect of that contravention, unless it is proved that he failed to take all reasonable measures for its prevention.

98. Penalty for using false certificate of fitness.—Whoever knowingly uses or attempts to use, as a certificate of fitness granted to himself under section 70, a certificate granted to another person under that section, or who, having procured such a certificate, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees or with both

99. Penalty for permitting double employment of child.—If a child works in a factory on any day on which he has already been working in another factory, the parent or guardian of the child or the person having custody of or control over him or obtaining any direct benefit from his wages, shall be punishable with fine which

may extend to fifty rupees, unless it appears to the Court that the child so worked without the consent or connivance of such parent guardian or person

100. Determination of occupier in certain cases.—(1) Where the occupier of a factory is a firm or other association of individuals, any one of the individual partners or members thereof may be prosecuted and punished under this Chapter for any offence for which the occupier of the factory is punishable

Provided that the firm or association may give notice to the Inspector that it has nominated one of its members, residing within the Provinces of India to be the occupier of the factory for the purposes of this Chapter, and such individual shall, so long as he is so resident, be deemed to be the occupier of the factory for the purposes of this Chapter, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a partner or member of the firm or association

(2) Where the occupier of a factory is a company, any one of the directors thereof, or in the case of a private company, any one of the shareholders thereof, may be prosecuted and punished under this Chapter for any offence for which the occupier of the factory is punishable

Provided that the company may give notice to the Inspector that it has nominated a director, or in the case of a private company, a shareholder, who is resident in either case within the Provinces of India, to be the occupier of the factory for the purposes of this Chapter, and such director or shareholder, as the case may be, shall, so long as he is so resident, be deemed to be the occupier of the factory for the purposes of this Chapter, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a director or shareholder.

(3) Where the owner of any premises or building referred to in section 93 is not an individual, the provisions of this section shall apply to such owner as they apply to occupiers of factories who are not individuals

101. Exemption of occupier or manager from liability in certain cases.—Where the occupier or manager of a factory is charged with an offence punishable under this Act, he shall be entitled, upon complaint duly made by him and on giving to the prosecutor not less than three clear days' notice in writing of his intention so

to do, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge, and if, after the commission of the offence has been proved, the occupier or manager of the factory, as the case may be, proves to the satisfaction of the Court—

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance —

that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the occupier or manager of the factory, and the occupier or manager, as the case may be, shall be discharged from any liability under this Act in respect of such offence :

Provided that in seeking to prove as aforesaid, the occupier or manager of the factory, as the case may be, may be examined on oath, and his evidence and that of any witness whom he calls in his support shall be subject to cross-examination on behalf of the person he charges as the actual offender and by the prosecutor.

Provided further that, if the person charged as the actual offender by the occupier or manager cannot be brought before the Court at the time appointed for hearing the charge, the Court shall adjourn the hearing from time to time for a period not exceeding three months and if by the end of the said period the person charged as the actual offender cannot still be brought before the Court, the Court shall proceed to hear the charge against the occupier or manager and shall, if the offence be proved, convict the occupier or manager.

102. Power of Court to make orders.(1)— Where the occupier or manager of a factory is convicted of an offence punishable under this Act the Court may, in addition to awarding any punishment, by order in writing require him, within a period specified in the order (which the Court may, if it thinks fit and on application in such behalf, from time to time extend) to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

(2) Where an order is made under sub-section (1), the occupier or manager of the factory, as the case may be, shall not be liable under this Act in respect of the continuation of the offence during the period or extended period, if any, allowed by the Court, but

if, on the expiry of such period or extended period as the case may be, the order of the Court has not been fully complied with, the occupier or manager, as the case may be, shall be deemed to have committed a further offence, and may be sentenced therefor by the Court to undergo imprisonment for a term which may extend to six months or to pay a fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or both to undergo such imprisonment and to pay such fine, as aforesaid.

103. Presumption as to employment.—If a person is found in a factory at any time, except during intervals for meals or rest, when work is going on or the machinery is in motion, he shall until the contrary is proved, be deemed for the purposes of this Act and the rules made thereunder to have been at that time employed in the factory.

104. Onus as to age.—(1) When any act or omission would, if a person were under a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court *prima facie* under such age, the burden shall be on the accused to prove that such person is not under such age.

(2) A declaration in writing by a certifying surgeon relating to a worker that he has personally examined him and believes him to be under the age stated in such declaration shall, for the purposes of this Act and the rules made thereunder, be admissible as evidence of the age of that worker.

105. Cognizance of offences.—(1) No Court shall take cognizance of any offence under this Act except on complaint by, or with the previous sanction in writing of, an Inspector.

(2) No Court below that of a Presidency Magistrate or of a Magistrate of the first class shall try any offence punishable under this Act.

106. Limitation of prosecutions.—No Court shall take cognizance of any offence punishable under this Act unless complaint thereof is made within three months of the date on which the alleged commission of the offence came to the knowledge of an Inspector :

Provided that where the offence consists of disobeying a written order made by an Inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

CHAPTER XI

SUPPLEMENTAL

107. Appeals.—(1) The manager of a factory on whom an order in writing by an Inspector has been served under the provisions of this Act or the occupier of the factory may, within thirty days of the service of the order, appeal against it to the prescribed authority, and such authority may, subject to rules made in this behalf by the Provincial Government, confirm, modify or reverse the order.

(2) Subject to rules made in this behalf by the Provincial Government (which may prescribe classes of appeals which shall not be heard with the aid of assessors) the appellate authority may, or if so required in the petition of appeal shall, hear the appeal with the aid of assessors, one of whom shall be appointed by the appellate authority and the other by such body representing the industry concerned as may be prescribed

Provided that if no assessor is appointed by such body before the time fixed for hearing the appeal, or if the assessor so appointed fails to attend the hearing at such time, the appellate authority may, unless satisfied that the failure to attend is due to sufficient cause, proceed to hear the appeal without the aid of such assessor or, if it thinks fit, without the aid of any assessor.

(3) Subject to such rules as the Provincial Government may make in this behalf and subject to such conditions as to partial compliance or the adoption of temporary measures as the appellate authority may in any case think fit to impose, the appellate authority may, if it thinks fit, suspend the order appealed against pending the decision of the appeal.

108. Display of notices.—(1) In addition to the notices required to be displayed in any factory by or under this Act, there shall be displayed in every factory a notice containing such abstracts of this Act and of the rules made thereunder as may be prescribed and also the name and address of the Inspector and the certifying surgeon.

(2) All notices required by or under this Act to be displayed in a factory shall be in English and in a language understood by the majority of the workers in the factory, and shall be displayed at some conspicuous and convenient place at or near the main entrance to the factory, and shall be maintained in a clean and legible condition.

(3) The Chief Inspector may, by order in writing served on the manager of any factory, require that there shall be displayed in the factory any other notice or poster relating to the health, safety or welfare of the workers in the factory.

109. Service of notices.—The Provincial Government may make rules prescribing the manner of the service of orders under this Act on owners, occupiers or managers of factories.

110. Returns.—The Provincial Government may make rules requiring owners, occupiers or managers of factories to submit such returns, occasional or periodical, as may in its opinion be required for the purposes of this Act.

111. Obligations of workers.—(1) No worker in a factory—

- (a) shall wilfully interfere with or misuse any appliance, convenience or other thing provided in a factory for the purposes of securing the health, safety or welfare of the workers therein ;
- (b) shall wilfully and without reasonable cause do anything likely to endanger himself or others ; and
- (c) shall wilfully neglect to make use of any appliance or other thing provided in the factory for the purposes of securing the health or safety of the workers therein.

(2) If any worker employed in a factory contravenes any of the provisions of this section or of any rule or order made thereunder, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

112. General power to make rules.—The Provincial Government may make rules providing for any matter which, under any of the provisions of this Act, is to be or may be prescribed or which may be considered expedient in order to give effect to the purposes of this Act.

113. Powers of Centre to give directions.—The Central Government may give directions to a Provincial Government as to the carrying into execution of the provisions of this Act.

114. No charge for facilities and conveniences.—Subject to the provisions of section 46 no fee or charge shall be realised from any worker in respect of any arrangements or facilities to be provided, or any equipments or appliances to be supplied by the occupier under the provisions of this Act.

115. Publication of rules.—All rules made under this Act shall be published in the official Gazette, and shall be subject to the condition of previous publication ; and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), shall be not less than three months from the date on which the draft of the proposed rules was published.

116. Application of Act to Government factories.—Unless otherwise provided this Act shall apply to factories belonging to the Central or any Provincial Government.

117. Protection to persons acting under this Act.—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

118. Restriction on disclosure of information. —(1) No Inspector shall, while in service or after leaving the service, disclose otherwise than in connection with the execution, or for the purposes of, this Act any information relating to any manufacturing or commercial business or any working process which may come to his knowledge in the course of his official duties.

(2) Nothing in sub-section (1) shall apply to any disclosure of information made with the previous consent in writing of the owner of such business or process or for the purposes of any legal proceeding (including arbitration) pursuant to this Act or of any criminal proceeding which may be taken, whether pursuant to this Act or otherwise, or for the purposes of any report of such proceedings as aforesaid.

(3) If any Inspector contravenes the provisions of sub-section (1) he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

119. Amendment of section 3, Act XXVI of 1938.—In sub-section (3) of section 3 of the Employment of Children Act, 1938, for the word “twelfth” the word “fourteenth” shall be substituted.

120. Repeal and savings.—The enactments set out in the Table appended to this section are hereby repealed :

Provided that anything done under the said enactments which could have been done under this Act if it had then been in force shall be deemed to have been done under this Act. .

TABLE

Enactments repealed

Year	No	Short title
1934 . .	XXV . .	The Factories Act, 1934.
1944 . .	XIV . .	The Factories (Amendment) Act, 1944.
1945 . .	III . .	The Factories (Amendment) Act, 1945
1946 . .	X . .	The Factories (Amendment) Act, 1946.
1947 . .	V . .	The Factories (Amendment) Act, 1947.

THE SCHEDULE

(See sections 89 and 90)

List of Notifiable Diseases

1. Lead poisoning, including poisoning by any preparation or compound of lead or their sequelae.
2. Lead tetra-ethyl poisoning.
3. Phosphorus poisoning or its sequelae.
4. Mercury poisoning or its sequelae.
5. Manganese poisoning or its sequelae.
6. Arsenic poisoning or its sequelae.
7. Poisoning by nitrous fumes.
8. Carbon bisulphide poisoning.
9. Benzene poisoning, including poisoning by any of its homologues, their nitro or amido derivatives or its sequelae.
10. Chrome ulceration or its sequelae.
11. Anthrax.
12. Silicosis.
13. Poisoning by halogens or halogen derivatives of the hydrocarbons of the aliphatic series.
14. Pathological manifestations due to—
 - (a) radium or other radio-active substances ;
 - (b) X-rays.
15. Primary epitheliomatous cancer of the skin.
16. Toxic anaemia.
17. Toxic jaundice due to poisonous substances.

COTTON GINNING AND PRESSING FACTORIES ACT, 1925

(XII OF 1925)

ARRANGEMENT OF SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. Maintenance of registers.
4. Marking of bales.
5. Returns.
- 5A. Returns from cotton ginning factories.
6. Scales and Weights.
7. Liability of lessee as owner.
8. Liability on transfer of ownership.
9. Structural requirements for factories.
10. Liability of officers of a Company.
11. Cognizance of offence.
12. Power of the Central Government to make rules.
13. Power of the Provincial Government to make rules.
14. Power to reject unmarked bales in fulfilment of contract.
15. Protection for acts done under Act.

COTTON GINNING AND PRESSING FACTORIES ACT, 1925

(XII OF 1925)¹

*An Act to provide for the better regulation of cotton ginning
and cotton pressing factories.*

Whereas it is expedient to provide for the better regulation of cotton ginning and cotton pressing factories ; it is hereby enacted as follows :—

I. Short title, extent and commencement.—(1) This Act may be called the Cotton Ginning and Pressing Factories Act, 1925.

¹ For Statement of Objects and Reasons, etc , see Gazette of India, 1924, Part V, p. 115; *ibid.*, 1925 Part V, p. 59

(2) It extends to ¹[all the Provinces of India] ², including ³the Sonthal Parganas.

(3) It shall come into force on such date as the ⁴[Central Government] may, by notification in the ⁵[Official Gazette], appoint.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

- (a) “bale” means any pressed package of cotton of whatever size or density ;
- (b) “cotton” means ginned or unginned cotton, or cotton waste ;
- (c) “cotton ginning factory” means any place where cotton is ginned or where cotton fibre is separated from cotton seed by any process whatever involving the use of steam, water or other mechanical power or of electrical power ;
- (d) “cotton pressing factory” means any factory as defined in the Indian Factories Act, 1934, in which cotton is pressed into bales ;
- (e) “cotton waste” means droppings, strippings, fly and other waste products of a cotton mill or of a cotton ginning factory or of a cotton pressing factory, but does not include yarn waste ;
- (f) “Indian Central Cotton Committee” means the Indian Central Cotton Committee under the Indian Cotton Cess Act, 1923 (XIV of 1923), and includes any sub-committee appointed by it to perform any function of the Indian Central Committee under this Act ;
- (g) “occupier” includes a managing agent or other person authorised to represent the occupier ;
- (h) “prescribed” means prescribed by or under rules made under this Act.

3. Maintenance of registers.—(1) The owner of every cotton ginning factory shall cause to be maintained at the factory in such

¹ These words were substituted for the words “the whole of British India” by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948

² The words “except Burma” was repealed by the Government of India (Adaptation of Indian Laws) Order, 1937

³ The words “British Baluchistan” was omitted by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948

⁴ These words were substituted for the words “Governor General in Council” by the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵ These words were substituted for the words “local official Gazette”, *ibid.*

form, if any, as may be prescribed, a ginning register containing a record of all cotton ginned in the factory and of the names of the persons for whom and the dates on which the cotton has been ginned and of the amount ginned for each person.

(2) The owner of every cotton pressing factory shall cause to be maintained at the factory in such form, if any, as may be prescribed, a press register containing a daily record of the number of bales pressed in the factory, the serial number of each bale, and the name of the person for whom it has been pressed.

(3) The owner or the person in charge of a cotton ginning or cotton pressing factory shall be bound to produce any ginning register or press register maintained under this section when required to do so by any person appointed by the ¹[Provincial Government] in this behalf, and the owner or person in charge of any cotton pressing factory shall be bound to furnish to the Indian Central Cotton Committee, if so required by it in writing, a copy, certified as correct by the owner or person in charge of the factory, of the entry in any press register maintained at the factory relating to any specified bale

(4) No register required to be maintained by this section shall be destroyed until after the expiration of three years from the date of the last entry therein.

(5) If—

(a) in any factory any register required by this section to be maintained is not maintained or is maintained in any form other than the form, if any, prescribed for the purpose, or

(b) any entry in any such register is proved to be false in any material particular, or

(c) any such register is destroyed before the expiration of the period referred to in sub-section (4)

the owner of the factory shall be punished with fine which may extend to fifty rupees, or if he has previously been convicted of any offence under this sub-section, to five hundred rupees.

(6) If the owner or the person in charge of any factory fails to produce any register, or to furnish a certified copy of any entry, when required to do so under sub-section (3), or furnishes a certified copy of an entry knowing or having reason to believe such copy to be false, he shall be punished with fine which may extend to

¹ These words were substituted, *ibid.*

fifty rupees or, if he has previously been convicted of any offence under this sub-section, to five hundred rupees.

4. Marking of bales —(1) The owner of every cotton pressing factory shall cause every bale pressed in the factory to be marked in such manner as may be prescribed, before it is removed from the press-house, with a serial number and with the mark prescribed for the factory.

(2) If any bale is removed from the press-house of any cotton pressing factory without having been marked as required by sub-section (1), the owner of the factory shall be punished with fine which may extend to fifty rupees

5. Returns.—(1) The owner of every cotton pressing factory shall submit to the prescribed authority, within such time and in such form as may be prescribed, weekly returns showing the total number of bales of cotton pressed during the preceding week and from the commencement of the season to the end of that week, and the approximate average net weight of the bales pressed in that week

(2) The ¹[Provincial Government] shall compile from the weekly returns, and shall publish in such manner as ²[it thinks fit] a statement showing the total number of bales pressed in the Province during the week and from the commencement of the season to the end of the week, to which the returns relate :

Provided that the number of bales pressed in any individual factory shall not be published.

(3) If default is made in submitting any return as required by sub-section (1), the owner of the factory shall be punished with fine which may extend to fifty rupees.

(4) Where the owner of a cotton pressing factory has notified to the prescribed authority that the work of pressing bales in that factory has been suspended, it shall not be necessary for the owner to submit returns under sub-section (1) until such work has been resumed.

Explanation.—In this section “season” means the period notified in this behalf by the ³[Provincial Government] in the ³[Official Gazette].

¹ These words were substituted for the words “Local Government” by the Government of India (Adaptation of Indian Laws) Order, 1937

² These words were substituted for the words “the Governor General in Council may direct”, *ibid.*

³ These words were substituted for other words by the Government of India (Adaptation of Indian Laws) Order, 1937.

¹[**5A. Returns from cotton ginning factories.**—(1) This section shall be in force in Chief Commissioners' Provinces only ; but the Provincial Government of any other Province may, by notification in the Official Gazette, bring this section into force in the Province.

(2) The owner of every cotton ginning factory shall submit to the prescribed authority, within such time and in such form as may be prescribed, weekly returns showing the quantity of cotton ginned in the factory during the preceding week and from the commencement of the season to the end of that week.

(3) The Provincial Government shall compile from the weekly returns so submitted, and shall publish in such manner as it thinks fit, a statement showing the total quantity of cotton ginned in the Province during the week and from the commencement of the season to the end of the week, to which the returns relate :

Provided that the quantity of cotton ginned in any individual factory shall not be published.

(4) If default is made in submitting any return as required by sub-section (2), the owner of the factory shall be punished with fine which may extend to fifty rupees.

(5) The provisions of sub-section (4) of section 5 apply to cotton ginning factories and the returns referred to in sub-section (2) of this section as they apply to cotton pressing factories and the returns referred to in sub-section (1) of section 5, and "season" in this section means the season as notified for the purposes of section 5.]

6. Scales and weights.—(1) No scales or weights shall be used in any cotton ginning or cotton pressing factory other than the scales or weights, if any, prescribed by the ²[Central Government] as standard for the district in which the factory is situated.

(2) If in any factory any scale or weight is used in contravention of the provisions of sub-section (1), the owner of the factory shall be punished with the which may extend to fifty rupees or, if he has been previously convicted of any offence under this sub-section, to five hundred rupees.

7. Liability of lessee as owner.—(1) Where the owner of a cotton ginning or pressing factory has leased the factory for a period

¹ This section was inserted by Cotton Ginning and Pressing Factories (Amendment) Act, 1942 (IX of 1942)

² These words were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

of not less than one month in the case of a cotton ginning factory, or three months in the case of a cotton pressing factory, and the lessor retains no interest in the management or profits of the factory and notice of the lease has been given by the lessor and the lessee to the prescribed authority, the lessee shall be deemed to be the owner of the factory, from the date of the notice and for the period of the continuance of the lease, for the purposes of section 3, in respect of the registers maintained or to be maintained from that date and for that period, and for the purposes of sections 4, 5, ¹[5A] and 6.

(2) On the termination of the lease, the lessee shall hand over to the lessor the registers maintained under section 3, and the lessor shall forthwith report to the prescribed authority any default of the lessee in complying with the provisions of this sub-section or in maintaining the registers in accordance with the provisions of section 3.

(3) If default is made in handing over any register or making any report as required by this section, the lessor or the lessee, as the case may be, shall be punished with fine which may extend to fifty rupees.

8. Liability on transfer of ownership.—(1) On a transfer of the ownership of a cotton ginning or pressing factory, the transferor shall hand over to the transferee the registers maintained under section 3, and the transferee shall forthwith report to the prescribed authority any default of the transferor in complying with the provisions of this sub-section or in maintaining the registers in accordance with the provisions of section 3.

(2) If default is made in handing over any register or making any report as required by sub-section (1), the transferor or the transferee, as the case may be, shall be punished with fine which may extend to fifty rupees.

9. Structural requirements for factories.—(1) In the case of cotton ginning factories the construction of which is commenced after the commencement of this Act—

(a) gin-houses shall be provided with separate entrances and exits for the bringing in of unginned and the taking out of ginned cotton respectively, and

¹ The figure 5A was inserted by Cotton Ginning and Pressing Factories (Amendment) Act, 1942 (IX of 1942).

- (b) the factories shall be constructed in accordance with plans and specification approved by the prescribed authority :

Provided that nothing in this sub-section shall apply to any factory in which only roller gins are used where the number of such gins is not more than four.

¹[(1A) In any cotton ginning factory, whether erected before or after the commencement of this Act—

- (a) no structural alterations or additions, the construction of which commenced after the 27th day of February, 1939 shall be made so as to minimise the degree of compliance of the factory as a whole with the requirements set forth in clauses (a) and (b) of sub-section (1), and

- (b) Every structural addition (whether actually attached to any existing structure in the factory or not), the construction of which commenced after the last-mentioned date, shall be constructed in accordance with plans and specification approved by the prescribed authority .

Provided that nothing in this sub-section shall apply to any factory in which, after any alteration or addition has been made, only roller gins are used where the number of such gins is not more than four.]

(2) Within such period after the commencement of this Act as may be prescribed, the owner of every cotton pressing factory in which cotton is handled on the ground floor shall cause the press-house to be paved or^{*} provided with other suitable flooring to the satisfaction of the prescribed authority.

(3) If the owner of any factory fails to comply with any provision of this section which is applicable to the factory, he shall be punished with fine which may extend to one hundred rupees.

(4) (a) Where the owner of a factory has been convicted under sub-section (3), the prescribed authority may serve on the owner of the factory an order in writing directing that such alterations shall be made in the factory, before a specified date, as in the opinion of the said authority are necessary to secure compliance with the provisions of sub-section (1), ²[sub-section (1A)] or sub-section (2), as the case may be.

¹ Sub-section (1A) was inserted by Cotton Ginning and Pressing Factories (Amendment) Act, 1939 (XIV of 1939).

² Inserted, *ibid*.

(b) Where the alterations are not made in accordance with the order served under clause (a) of this sub-section, the prescribed authority may serve on the owner and on the occupier, if any, of the factory an order in writing directing that the work of ginning or pressing cotton in such factory shall be suspended until the alterations have been made in accordance with the order served under clause (a) of this sub-section and the owner and the occupier, if any, shall be jointly and severally liable to fine which may extend to fifty rupees for each day on which cotton is ginned or pressed in the factory in contravention of the order served under this clause

10. Liability of officers of a company.—Where the person guilty of an offence under this Act is a company, every director, manager, secretary and other officer thereof who is knowingly a party to the default shall also be guilty of the like offence and liable to the like punishment.

11. Cognizance of offence—(1) No prosecution under this Act shall be instituted except by or with the previous sanction of the District Magistrate or a Chief Presidency Magistrate or a Magistrate of the first class specially empowered in this behalf by the ¹[Provincial Government].

(2) No offence punishable under this Act shall be tried by any Court inferior to that of a Presidency Magistrate or of a Magistrate of the first class.

12. Power of the ²[Central Government] to make rules.—The ²[Central Government] may make rules to provide for—

(a) the allotment of a special mark to be used by each pressing factory for the purpose of the marking of bales ;

(b) the manner in which bales shall be marked ; and

³[(c) the standard weights and scales to be used in cotton ginning and cotton pressing factories in any part of ⁴[the Provinces] and the inspection of the same].

¹ These words were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937

² These words were substituted for the words "Governor General in Council", *ibid.*

³ The clause (c) was substituted by the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴ These words were substituted for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

13. Power of the ¹[Provincial Government] to make rules.—

The ¹[Provincial Government] may, by notification in the ²[Official Gazette] make rules consistent with this Act to provide for all or any of the following matters, namely —

- (a) the forms in which registers, records and returns are to be maintained or submitted, and the inspection of records and register ;
- (b) the appointment of the authority to whom and the time within which the returns required by ³[sections 5 and 5A] shall be made ,
- ⁴(c) : * * *
- (d) the appointment of authorities for the purposes of sections 7, 8 and 9 ;
- (e) the manner of service of orders made under section 9 ;
- (f) the powers of entry and inspection which may be exercised by District Magistrates or by any officer specially empowered in this behalf by the ¹[Provincial Government] ;
- (g) any other matter which is to be or may be prescribed or for which provision is necessary in order to carry out the purposes of this Act

14. Power to reject unmarked bales in fulfilment of contract.

—⁵[(1)] After the expiration of one year from the commencement of this Act, any person who has made a contract for the purchase of baled cotton may require that no bales other than bales marked ⁶[with the mark prescribed under section 4 for the factory in which they were pressed] shall be supplied in fulfilment of such contract, and, if he does so require, no bale not so marked shall be tenderable in fulfilment of the contract.

7 * * *

¹ These words were substituted for the words "Local Government" by Government of India (Adaptation of Indian Laws) Order, 1937

² These words were substituted for the words "local official Gazette", *ibid*

³ These words were substituted for the words "Section 5" by Cotton Ginning and Pressing Factories (Amendment) Act, 1942 (IX of 1942)

⁴ This clause was repealed by Government of India (Adaptation of Indian Laws) Order, 1937

⁵ The original Section was renumbered as sub-section (1) by Cotton Ginning and Pressing Factories (Amendment) Act, 1939 (XIV of 1939).

⁶ These words were substituted for the words "in accordance with Section 4", *ibid*.

⁷ The proviso was omitted, *ibid*.

¹[(2) Any bale marked in accordance with the provisions of section 4 shall, within the meaning of the Indian Evidence Act, 1872 (Act I of 1872) be presumed for all purposes as between the parties to a contract for the purchase of baled cotton, to have been so marked before leaving the factory in which it was pressed.]

15. Protection for acts done under Act.—No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

INDIAN COTTON GINNING AND PRESSING FACTORIES RULES, 1925.

Contents

1. Short title and commencement.
2. Definitions.
3. Application.
4. Special mark.
5. Marks not transferable.
6. Serial No.
7. Manner of marking.

INDIAN COTTON GINNING AND PRESSING FACTORIES RULES, 1925.²

In exercise of the power conferred by section 12 of the Cotton Ginning and Pressing Factories Act, 1925 (XII of 1925), the Central Government is pleased to make the following rules:—

1. Short title and commencement.—(1) These rules may be called the Indian Cotton Ginning and Pressing Factories Rules, 1925.

(2) They shall come into force on the eighth day of August, 1925.

2. Definition.—In these rules—

“Act” means the Cotton Ginning and Pressing Factories Act, 1925.

“Section” means a section of the Act.

¹ The new sub-section was added, *ibid*.

² These Rules were published under Department of Commerce Notification No. 236-C (2) dated the 8th August, 1925.

3. The owner or lessee of every cotton pressing factory shall apply to the authority appointed to receive returns under sub-section (1) of Section 5 for the allotment of the mark required by section 4 to be used for such factory. Such application shall be made, in the case of factories in existence at the commencement of these rules, on or before the 1st September, 1925, and, in case of factories constructed thereafter not less than one month before work commences in the factory.

Provided that the authority aforesaid may at any time allot the mark to be used in a factory in respect of which no application has been made and may intimate the allotment to the owner of such factory.

4. Special mark.—(1)—The special mark allotted to each factory shall consist of a letter denoting the province in which the factory is situated together with a number denoting the factory

(2) The letters denoting the province shall be as follows —

For presses situated in the Province of Madras, the letter	M
For presses situated in the Province of Bombay, the letter	B
For presses situated in Sind, the letter	S
For presses situated in the Province of Bengal, the letter	L
For presses situated in the United Provinces, the letter	U
For presses situated in the Province of the Punjab, the letter	P
For presses situated in the Central Provinces and Berar, the letter	C
For presses situated in Bihar, the letter	Q
For presses situated in Orissa, the letter	O
For presses situated in Assam, the letter	A
For presses situated in the North-West Frontier Province, the letter	F
For presses situated in Ajmer-Merwar	J
For presses situated in Delhi	D

(3) The number denoting the factory shall run consecutively within each province.

5. Marks not transferable.—No special marks once allotted shall be transferred to another factory :—

Provided that when a press is transferred from one province to another, the original allotted mark shall no longer be used and application shall be made to the prescribed authority for allotment of a fresh mark.

6. Serial No.—The serial number shall consist of two parts. The first part shall consist of two numerals being the last two integers

of the calendar year in which the cotton year has commenced and the second part shall be the running number of the bale according to the press factory register. A new series of running number shall be started at the commencement of each cotton year. The cotton year shall commence on the 1st day of September in each calendar year and shall terminate on the thirty-first day of August next following, except in the Madras Presidency when the dates for the commencement and ending of the cotton year shall be the first day of February and thirty-first day of January respectively.

7. Manner of marking.—Every bale of cotton pressed in a cotton pressing factory shall be marked in the following manner.—

(1) The special mark and the serial number shall be in English figures and letters and shall be clearly decipherable

(2) If the special mark and the serial number are stencilled in ink, they shall be stencilled on the lashed side of the bale

(3) The stencilling of the special mark and the serial number on an end hessian or an unlashed side of a bale shall not be deemed to fulfil the requirement of this rule

INDUSTRIAL STATISTICS LEGISLATION

Industrial Statistics Act

The Royal Commission on Labour in India strongly recommended the necessity of the adoption of the legislation for the collection of industrial statistics in India. The quality and nature of reliable information in regard to the progress of industries and of labour conditions were inadequate. The matter was considered at the eleventh session of the Industries Conference in 1939 and also at the Second Conference of Labour Ministers in 1941 and the collection of statistics relating to industries and labour was thought necessary and desirable. The Central Government took the initiative of enacting legislation in the form of Industrial Statistics Act in 1942 (XIX of 1942) though the Government of Central Provinces and Berar passed an Act to that effect in 1939.

Application of the Act

The Act extends to all the provinces of India and will come into force in any province on such date as the Provincial Government may notify in the Official Gazette. It is designed to enable

Provincial Governments to collect information and to frame rules for the purpose. It provides for the collection of statistics relating to factories and to conditions of life and work of the workers, commodity prices, regularity of attendance at work, living conditions, rents of dwelling houses, workers, indebtedness, wages and hours of work, particulars of provident funds, benefits and amenities provided for labour, returns of employment and unemployment and industrial disputes. It aims at giving greater degree of uniformity in the collection of statistics than had hitherto been possible. The Act empowers the Provincial Governments to make rules and the Central Government to give direction to the Provinces for securing uniformity in the procedure and in the method to be adopted in collecting information. The Act empowers the Provincial Government to appoint an officer to be Statistics Authority for collection of statistics under the Act. The Provincial Governments have appointed Statistics Authorities and the Central Government has appointed a Director of Industrial Statistics to co-ordinate the work in connection with the implementation of the collection of statistics relating to factories, which was collected on voluntary basis but on statutory basis from 1946.

Administration.

The administration of the collection of statistics relating to factories is the responsibility of the Central Ministry of Industries and Supplies and the administration of the Act relating to labour statistics is the responsibility of the Labour Minister, Government of India.

Collection of Statistics Regarding Labour Problems

The Standing Labour Committee in their fifth meeting held on the 27th June 1944 proposed that in the view of the unsatisfactory existing procedure for collection of statistics relating to trade disputes, the machinery provided by the Industrial Statistics Act of 1942 should be utilised with a view to improve the existing statistics and in order to have uniformity in the method of compilation. The Central Government drafted rules and forms and circulated them to the Provincial Governments and various Employers and Workers organisations, but the same was not pursued for various reasons. The Government of India has decided to utilise the Act for collection of statistics relating to labour problems and necessary forms

were drafted and the matter was discussed in the Ninth Labour Conference held in April 1948. Suggestion was made for co-ordination of the various statistics of the Central Government. The Government agreed to take necessary steps to set up a Central Statistical Bureau which would avoid duplication in the matter of collection of statistics.

Labour Bureau, Government of India

The Government of India in the Department of Labour have created a Labour Bureau from 1st October 1946 with a view to (1), organise the collection and publication of labour statistics, (2) maintain cost of living indices which is an indispensable instrument for adjusting wages and dearness allowances for variations in cost of living, (3) to keep up-to-date factual data relating to working conditions collected by the Labour Investigation Committee, (4) to conduct research into labour problems for furnishing data required for the formation of labour policy etc. The informations collected are being published in the Labour Gazette edited by the Bureau. The Director has conducted several Family Budget Enquiries of industrial and plantation workers of different provinces

Bureau of Statistical Information

With a view to compiling and collecting statistical and other essential data relating to major industries, a Bureau of Industrial and Statistical Information has been established at the Indian Institute of Science. The Bureau will deal with enquiries of an industrial, commercial and research character from the industrial concerns.

Conference on Industrial Development of India

The Census of Manufacturing Industries Rules were promulgated by the Provincial Governments under the Act in 1945, but statutory collection of statistics was undertaken in 1946. The returns received by the Director of Industrial Statistics were only 10 per cent although the Provincial Statistics Authorities received 70 per cent of the returns. There were two conferences in March 1946 and January 1947 between the Central and Provincial authorities in which the question of staff and organisation was discussed. Collection of statistics under the Act was discussed in the Industries Conference convened by the Minister of Industries and Supplies in December 1947 and the conference expressed regret for failure of the census of manufacturing

industries for the years 1944 to 1946 due to the inadequacy of staff and organisation in the Provinces and States. It recommends that adequate machinery should be provided in the Centre, Provinces and States for regular collection and maintenance of accurate industrial statistics and the existing statistical forms should be re-examined with a view to simplifying them

INDUSTRIAL STATISTICS ACT, 1942 (XIX OF 1942)

Arrangement of Sections

1. Short title, extent and commencement.
2. Definition.
3. Collection of statistics
4. Appointment of statistics authority.
5. Power of statistics authority to call for returns and information.
6. Right of access to record or document
7. Restriction on the publication of returns and information
8. Penalties.
9. Penalty for improper disclosure of information or returns
10. Cognizance of offences.
11. Power of the Central Government to give directions
12. Power of Provincial Governments to make rules.

INDUSTRIAL STATISTICS ACT, 1942 (XIX OF 1942)¹

An Act to facilitate the collection of statistics of certain kind relating to industries

Whereas it is expedient to facilitate the collection of statistics of certain kinds relating to industries ;

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Industrial Statistics Act, 1942.

(2) It extends to ²[all the Provinces of India]

¹ For statement of objects and reasons, see Gazette of India, Part V, 7th March 1942, p. 39.

² These words were substituted for the words "the whole of British India" by Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948

(3) It shall come into force in a Province on such date as the Provincial Government may, by notification in the official Gazette, appoint in this behalf for such Province

2. Definition.—In this Act “prescribed” means prescribed in rules made under this Act or in any form prescribed by those rules.

3. Collection of Statistics.—(1) The Provincial Government may, by notification in the official Gazette, direct that statistics shall be collected relating to any of the following matters, namely —

- (a) any matter relating to factories,
- (b) any of the following matters so far as they relate to welfare of labour and conditions of labour, namely —
 - (i) prices of commodities
 - (ii) attendance,
 - (iii) living conditions, including housing, water supply and sanitation,
 - (iv) indebtedness,
 - (v) rents of dwelling-houses,
 - (vi) wages and other earnings,
 - (vii) provident and other funds provided for labour,
 - (viii) benefits and amenities provided for labour,
 - (ix) hours of work,
 - (x) employment and unemployment,
 - (xi) industrial and labour disputes,

and thereupon the provisions of this Act shall apply to the collection of those statistics.

(2) In clause (a) of sub-section (1), “factory” means a factory as defined in clause (j) of section 2 of the Factories Act, 1934 (XXV of 1934), or any premises deemed to be a factory in pursuance of a declaration made under sub-section (1) of section 5 of that Act.

4. Appointment of statistics authority.—The Provincial Government may appoint an officer to be the statistics authority for the purposes of the collection of any statistics under this Act.

5. Power of statistics authority to call for returns and information.—(1) The statistics authority may serve or cause to be served on any person a notice requiring him to furnish, at such intervals and in such form and with such particulars as may be prescribed, such information or returns relating to any matter in respect of which statistics are to be collected and to such authority or person and in such manner and at such times as may be prescribed.

(2) The notice referred to in sub-section (1) may be served by post

6. Right of access to record or document.—The statistics authority or any person authorized by him in writing in this behalf shall, for the purposes of the collection of any statistics under this Act, have access to any relevant record or document in the possession of any person required to furnish any information or return under this Act, and may enter at any reasonable time any premises wherein he believes such record or document to be, and may ask any question necessary for obtaining any information required to be furnished under this Act.

7. Restriction on the publication of returns and information.—
(1) No individual return, and no part of an individual return, made, and no information with respect to any particular undertaking given, for the purposes of this Act, shall, without the previous consent in writing of the owner for the time being of the undertaking in relation to which the return or information was made or given, or his authorized agent, be published in such manner as would enable any particulars to be identified as referring to a particular undertaking.

(2) Except for the purposes of a prosecution under this Act or under the Indian Penal Code (XLV of 1860) no person not engaged in connection with the collection of statistics under this Act shall be permitted to see any individual return or information referred to in sub-section (1).

8. Penalties.—If any person required to furnish any information or any return:—

- (a) wilfully refuses or without lawful excuse neglects to furnish such information or return as required under this Act, or
- (b) wilfully furnishes or causes to be furnished any information or return which he knows to be false, or
- (c) refuses to answer or wilfully gives a false answer to any question necessary for obtaining any information required to be furnished under this Act,

or if any person impedes the right of access to relevant records and documents or the right of entry conferred by section 6, he shall for each such offence be punishable with fine which may extend to five hundred rupees, and in the case of a continuing offence to a further fine which may extend to two hundred rupees for each

day after the first during which the offence continues ; and in respect of false information, returns or answers the offence shall be deemed to continue until true information or a true return or answer has been given or made.

9. Penalty for improper disclosure of information or returns.—

If any person engaged in connection with the collection of statistics under this Act wilfully discloses any information or the contents of any return given or made under this Act otherwise than in the execution of his duties under this Act or for the purposes of the prosecution of an offence under this Act or under the Indian Penal Code (XLV of 1860), he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both imprisonment and fine.

10. Cognizance of offences.—No prosecution under section 8 shall be instituted except by or with the sanction of the statistics authority and no prosecution under section 9 shall be instituted except by or with the sanction of the Provincial Government.

11. Power of the Central Government to give directions.

—The Central Government may give directions to a Provincial Government as to the carrying into execution of this Act in the Province.

12. Power of Provincial Governments to make rules.

—(1) The Provincial Government may, subject to the condition of previous publication by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing powers, rules may be made under this section regulating the exercise of the right of access to documents and the right of entry conferred by section 6.

ESTABLISHMENT LEGISLATION

Hours of Work in Shops, etc.

The International Labour Convention No. 30¹ regulating hours of work in commerce and office was adopted in 1930. At the first Conference of Labour Ministers held in 1940, it was suggested that the Central Government should consider the question of legislation

¹ International Labour Code, 1939 (Montreal, 1941)

authorising Provincial Governments to provide for the compulsory closing of shops and commercial establishments for a minimum period in each week. The Weekly Holidays Bill was drafted after consulting the Provincial Governments and further discussion at the Second Conference of Labour Ministers held in January 1941 and the Weekly Holidays Act was passed in 1942 (XVIII of 1942)

Weekly Holidays

The Weekly Holidays Act 1942 covers the whole of India and will come into effect in the Province, only if the Provincial Government by notification in the official Gazette, chooses to apply it. The Act provides for one paid weekly holiday for every person employed otherwise than in a confidential capacity or in a position of management in any shop, restaurant or theatre. Provincial Governments are also empowered to grant additional holiday with pay for one half-day a week.

Provincial Legislations

Legislations concerning shops and commercial establishments providing holidays with pay were passed in Bombay in 1939, in Bengal, Punjab and Sind in 1940 before the matter was taken up by the Central Government. The Central Provinces, U P and Madras Governments also passed necessary legislations in 1947. The Provincial Acts regulate the hours and conditions of work of employees and apart from weekly days of rest, provide for privilege leave and/or casual leave. The Assam Government passed similar legislation in 1948. The Bombay Government after enquiry into the working of the old Act, passed a comprehensive measure in 1948 repealing the Act of 1939.

Five-Year Programme

In the Five-year Programme of the Labour Department, the Central Government desires to have a central legislation for regulating working conditions in shops and commercial undertakings. The proposed Act will be fairly comprehensive in its scope and will ensure uniformity in application in all provinces. This proposal was considered and approved by the Standing Labour Committee in their meeting in July 1947. The proposed Act will be applied in the first instance to municipal areas and will cover persons employed in commercial and trading undertakings, the office sections of factories,

restaurants, eating houses, theatres and other places of public amusement and will regulate hours of work, intervals and rest periods, spread over, opening and closing hours, weekly holidays, holidays with pay, payment of wages, cleanliness of the premises and lighting. It will contain some provisions regarding employment of young persons.

WEEKLY HOLIDAYS ACT, 1942 (XVIII of 1942)

Arrangement of Sections

1. Short title, extent and commencement
2. Definitions.
3. Closing of shops.
4. Weekly holidays in shops, restaurants and theatres
5. Additional half-day closing or holiday
6. No deduction or abatement to be made from wages
7. Inspectors.
8. Powers of Inspectors.
9. Penalties.
10. Rules.
11. Power of exemption and suspension

WEEKLY HOLIDAYS ACT, 1942 (XVIII OF 1942)¹

An Act to provide for the grant of weekly holidays to persons employed in shops, restaurants and theatres.

Whereas it is expedient to provide for the grant of weekly holidays to persons employed in shops, restaurants and theatres, It is hereby enacted as follows:—

1. Short title, extent and commencement. —(1) This Act may be called the Weekly Holidays Act, 1942.

(2) It extends to [all the Provinces of India].²

¹ For Statement of Objects and Reasons, see Gazette of India, Part V, 11th October, 1941, p. 149, for Select Committee Report see *Ibid*, 14th March, 1942, Part V, p. 55

² These words were substituted for the words "the whole of British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

(3) It shall come into force in a Province¹ or in a specified area within a Province only if the Provincial Government by notification in the official Gazette so directs.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context—

- (a) “establishment” means a shop, restaurant or theatre ;
- (b) “day” means a period of twenty-four hours beginning at midnight ,
- (c) “restaurant” means any premises in which is carried on principally or wholly the business of supplying meals or refreshments to the public or a class of the public for consumption on the premises but does not include a restaurant attached to a theatre ;
- (d) “shop” includes any premises where any retail trade or business is carried on, including the business of a barber or hair dresser, and retail sales by auction, but excluding the sale of programmes, catalogues and other similar sales at theatres ,
- (e) “theatre” includes any premises intended principally or wholly for the presentation of moving pictures, dramatic performances or stage entertainments ;
- (f) “week” means a period of seven days beginning at midnight on Saturday

3. Closing of shops.—(1) Every shop shall remain entirely closed on one day of the week, which day shall be specified by the shop-keeper in a notice permanently exhibited in a conspicuous place in the shop.

(2) The day so specified shall not be altered by the shop-keeper more often than once in three months.

4. Weekly holidays in shops, restaurants and theatres.
—Every person employed otherwise than in a confidential capacity or in a position of management in any shop, restaurant or theatre shall be allowed in each week a holiday of one whole day

Provided that nothing in this section shall apply to any person whose total period of employment in the week including any days spent on authorised leave is less than six days or entitle to an

¹ The Act was enforced in Bihar, Ajmer-Merwara and Coorg, Assam, Bengal, Bombay, Central Provinces, Madras, Punjab and United Provinces enacted separate legislations relating to employees in shops and commercial establishments

additional holiday a person employed in a shop who has been allowed a whole holiday on the day on which the shop has remained closed in pursuance of section 3.

5. Additional half-day closing or holiday.—(1) The Provincial Government may, by notification in the official Gazette, require in respect of shops or any specified class of shops that they shall be closed at such hour in the afternoon of one week-day in every week in addition to the day provided for by section 3 as may be fixed by the Provincial Government, and, in respect of theatres and restaurants or any specified class of either or both, that every person employed therein otherwise than in a confidential capacity or in a position of management shall be allowed in each week an additional holiday of one half-day commencing at such hour in the afternoon as may be fixed by the Provincial Government.

(2) The Provincial Government may, for the purposes of this section, fix different hours for different shops or different classes of shops or for different areas or for different times of the year.

(3) The weekly day on which a shop is closed in pursuance of a requirement under sub-section (1) shall be specified by the shop-keeper in a notice permanently exhibited in a conspicuous place in the shop and shall not be altered by the shop-keeper more often than once in three months

6. No deduction or abatement to be made from wages.—No deduction or abatement of the wages of any person employed in an establishment to which this Act applies shall be made on account of any day or part of a day on which the establishment has remained closed or a holiday has been allowed in accordance with sections 3, 4 and 5, and if such person is employed on the basis that he would not ordinarily receive wages for such day or part of a day he shall none the less be paid for such day or part of a day the wages he would have drawn had the establishment not remained closed or the holiday not been allowed on that day or part of a day.

7. Inspectors.—(1) The Provincial Government may, by notification in the official Gazette, appoint persons to be inspectors for the purposes of this Act within such local limits as it may assign to each such person.

(2) Every inspector appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. (XLV of 1860).

8. Powers of Inspectors.—(1) Subject to any rules made in this behalf by the Provincial Government, an inspector may, within the local limits for which he is appointed,—

- (a) enter and remain in any establishment to which this Act applies with such assistants, if any, being servants of the Crown, as he thinks fit,
- (b) make such examination of any such establishment and of any record, register or notice maintained therein in pursuance of rules made under clause (c) of sub-section (2) of section 10, and take on the spot or otherwise such evidence of any person as he may deem necessary for carrying out the purposes of this Act ;
- (c) exercise such other powers as may be necessary for carrying out the purposes of this Act

(2) Any person having the custody of any record, register or notice maintained in pursuance of rules made under clause (c) of sub-section (2) of section 10 shall be bound to produce it when so required by the inspector, but no person shall be compellable to answer any question if the answer may tend directly or indirectly to criminate himself.

9. Penalties.—In the event of any contravention of the provisions of section 3, of section 4, of a requirement imposed by notification under sub-section (1) of section 5, of section 6, or of the rules made under clause (c) of sub-section (2) of section 10, the proprietor or other person responsible for the management of the establishment in which such contravention takes place shall be punishable with fine which may extend, in the case of the first offence, to twenty-five rupees, and, in the case of a second or subsequent offence, to two hundred and fifty rupees.

10. Rules.—(1) The Provincial Government may, subject to the condition of previous publication by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) define the persons who shall be deemed to be employed in a confidential capacity or in a position of management for the purpose of section 4 and 5 ,
- (b) regulate the exercise of their powers and the discharge of their duties by inspectors ;

- (c) require registers and records to be maintained and notices to be displayed in establishments to which this Act applies and prescribe the form and contents thereof

11. Power of exemption and suspension.—The Central Government in respect of establishments under its control, and the Provincial Government in respect of all other establishments within the Province may, subject to such conditions, if any, as it thinks fit to impose, exempt any establishment to which this Act applies from all or any specified provisions of this Act, and may, on any special occasion in connection with a fair or festival or a succession of public holidays, suspend for specified period the operation of this Act

PLANTATION LEGISLATION

Early legislation

Plantation legislation began to develop in India in connection with the tea industry in Assam. Owing to the scarcity of labour in the Province, workers had to be imported from other Provinces and the character of these workers were thus migratory. The early legislative measures were more protective of the planters than of their workers. The Workmens' Breach of Contract Act, 1859 (VIII of 1859), the Employers and Workmens' (Disputes) Act, 1860 (IX of 1860) and Sections 490 and 492 of the Indian Penal Code, 1860, which regulated the condition of employment of plantation labour, made it a penal offence for a worker for breach of contract of service. In compliance with the recommendation of the Assam Labour Committee, the Government of India passed an Act in 1925¹ repealing the Workmens' Breach of Contract Act, 1859 (VIII of 1859) and Sections 490 and 492 of the Indian Penal Code, 1860. The new Act came into force on 1st April 1926 and took a forward step in abolishing penal contract.

Madras and Coorgs Acts

The Madras Planters' Act of 1903 also introduced a penal provision to protect the planters from loss of advances given to the workers. The Coorg Labour Act 1926 contained similar penal provision. The Madras Act was repealed in 1929 and the Coorg Act came to an end in 1931.

Assam Labour and Emigration Act, 1901 (VI of 1901)

The first legislation which gave some degree of protection to plantation labour was passed in 1901. The Commission of Enquiry appointed by the Government of Bengal in 1895 criticised the abuses in connection with the prevailing system of recruitment and recommended several measures. Assam Labour and Emigration Act was passed by the Government of India on the basis of these recommendations in 1901 (VI of 1901) extending it to Bengal, Assam, Central Provinces, North West Frontier Province, Oudh (United Provinces)

¹ The Workmen's Breach of Contract (Repealing) Act, 1925 (III of 1925)

and the District of Ganjam in Madras. The Local Government with the sanction of the Central Government could extend it within their respective provinces. The Act prohibited the recruitment of labour except through licensed contractors. Regulations were thus laid down for control of labour supply to tea gardens. The Act was amended in 1908 (XI of 1908) abolishing the system of penal contract for new recruits except in the recruiting districts and prohibiting recruitment by unlicensed contractors and the right of arrest of workers by planters. The Act was further amended in 1915 abolishing the system of indentured labour in Assam Valley and recruitment by all sort of contractors. The Act provided the establishment of Assam Labour Board for supervision of recruitment by tea-garden sirdars.

The Jalpaiguri Labour Act, 1912, provides for keeping of registers and submission of returns by employers about health, sickness and mortality of the workers within the District. An annual report about sickness and medical services among the workers in the Dooars has also to be submitted by the Civil Surgeon, Jalpaiguri.

Tea Districts Emigrant Labour Act, 1932 (XXII of 1932)

The Assam Labour and Emigration Act of 1901 though amended in 1908 and 1915 proved inadequate for regulation of recruitment and was unintelligible to the common people. The Government of India took steps for further amendment and drafted Assam Recruitment Bill in 1928, but postponed further action on the appointment of Royal Commission on Labour. The Commission found the Act of 1901 open to several objections and recommended the enactment of a new law with the object of (1) freer movement of labour, (2) greater security for labourers and (3) better administration of law. On the basis of these recommendations, the Tea Districts Emigrant Labour Act was passed in 1932 (XXII of 1932) which came into force on 1st October 1933. The Act repealed the Assam Labour Emigration Act 1901 (VI of 1901) and thus removed the last vestige of penal contract from the Statute book.

Main Provisions of the Act

The object of the Act is to regularise the condition of recruitment of plantation labour in the tea gardens of Assam. The Act provides for the appointment of a Controller of Emigrant Labour and the inspecting staff whose duty is to enforce the provisions of the Act and to safeguard the rights and interest of emigrant labour during

their stay in the tea estate and during journey to and from the estate to their homes. The Central Government is authorised to levy a cess on recruitment to defray the expenses of the Controller and his staff. The Act empowers the Provincial Government, subject to the control of the Central Government, to declare an area to be controlled emigration area and thereafter an assisted emigrant (a new recruit proceeding to Assam to work as a labourer in tea plantation through the assistance of another person) may be forwarded to Assam by a licensed forwarding agent acting on behalf of an employer. Such assisted recruits can be sent only by prescribed routes where feeding and accommodation arrangements have been made by the agents. The Act also empowers the Provincial Government, with the concurrence of Central Government to declare any controlled emigration area or any part of it to be restricted recruiting area. In such case recruitment can be made only by licensed recruiters or certified garden sirdars. The Provincial Government's powers to declare controlled emigration areas and restricted recruiting areas now vest in the Central Government under the Adaptation Order of 1937. Every emigrant labourer is entitled to repatriation to his own place at the expense of the employer after completing three years' service or even earlier under certain circumstances. He may also postpone the exercise of his right of repatriation or may waive it. The family of a deceased worker enjoys similar rights. Children under 16 must not migrate unless accompanied by parents or guardians and married woman without the consent of her husband. Infringement is punishable with imprisonment which may extend to six months or a fine of Rs. 500 or both. The Act does not contain any provision regulating accommodation, sanitation, water supply, medical treatment, wages, hours of work, educational facilities, rest, recreation and other welfare arrangements for workers employed in tea state.

Administration

The Act is administered by the Controller of Emigrant Labour appointed by the Central Government, whose main functions are supervision of recruitment and repatriation of emigrant labourers. The Controller publishes an annual report on the working of the Act. Statistics for the year ending 30th September 1946 shows that there were 1,144,439 emigrant labourers in Assam, of whom 584,222 were adults and 560,217 children. Of these 44,574 were new recruits during the year, 26,814 repatriated and 11,733 postponed their rights.

The major portion of Sylhet having acceded to Pakistan in 1947, the total emigrant labour population was reduced to 966,057 for the year ending 30th September, 1947, of these 492,749 were adults and 473,308 children. The number of new recruits during the year was 43,007, 21,047 persons were repatriated and 13,675 labourers postponed their right of repatriation.

Defects of the Act and Government's Five-year Plan

Next to factories, the Plantation industries are the largest employers of labour. The existing Act is not actually a piece of labour legislation as it does not regulate working conditions in tea plantation, but it is really an emigration legislation.

Great majority of the plantation workers are not covered by the Act. The Controller of Emigrant Labour has no control over conditions of labour and life in the tea gardens in Assam. Plantations in India are thus practically immune from any legislative control regarding the regulation of working conditions. Plantation labour also does not at present come under any existing labour legislation excepting the Workmen's Compensation Act. The provisions for regulating the conditions of work of plantation labour exist in Cochin State only. The Reports of the Labour Investigation Committee¹ show that in plantations (1) wages are inadequate (2) housing conditions are unsatisfactory and (3) medical and welfare services require substantial improvement and expansion. Under the Five-year Labour Plan, the Government of India has undertaken to adopt measures for improvement of wages and living conditions of these workers. A conference of the representatives of Provincial and State Governments, employers and workers was convened to chalk out a programme of action for bringing about the much needed improvements in the conditions of plantation workers. Legislation will be undertaken to give effect to the agreed policy and to provide for inspection by health authorities. An Industrial Committee on Plantation was also constituted.

Industrial Committee on Plantation

First Meeting

A Tripartite Conference of the representatives of Provincial Governments, employers and workers in Tea Plantation Industry was held on the 8th and 9th January 1947, at New Delhi to consider

¹ Main Report and Mr. Rege's Report on Plantations

the special problems affecting tea plantation labour and to decide what specific measures should be taken to secure a living wage and reasonable conditions of work. As a result of discussions, it was agreed that a rapid enquiry into the Cost and Standard of Living of Plantation workers in Assam, Bengal and South India should be conducted by the Government in collaboration with the industry to enable the Committee to fix fair rate of wages for the workers. Pending the enquiry the employers in Assam and Bengal agreed to certain minimum increase in dearness allowance to the workers. As a result, the dearness allowance was increased to 2 annas per day for every adult worker and one anna per day for every child worker in the hazira rate and to 25 per cent for monthly rated workers. Maternity benefit was increased to 12 annas a day for a period of 8 weeks and sickness benefit was fixed at 10 annas a day for a maximum period of 2 weeks a year. The Conference agreed that the Government should prescribe and enforce standards regarding housing and medical services for plantation labour and the employers should submit their proposals to the Government through the Provincial Governments and that the matters should be discussed in the next Conference. The extension of Primary Education Act to plantation areas and the necessity of organising welfare activities were also discussed. The Conference unanimously recommended that a special Plantation Labour Act should be enacted to secure the above objectives. It was also decided that the Plantation Labour Conference should be made a permanent body and the conference should consider major problems affecting all plantation labour whether of tea, rubber, coffee or other products, leaving the specific problems regarding each section for detailed consideration of the appropriate Advisory Committee. It was also agreed that a small Standing Committee should be constituted which could meet at non-frequent intervals and advise the Government on the problems referred to it.

Second Meeting.

The Second meeting of the Industrial Committee on Plantations was held at New Delhi from 31st March to 2nd April 1948. Mr. Deshpande's Reports on the enquiry into the Cost and Standard of Living of Plantation Workers in Assam and Bengal and South India were placed before the Committee and the exclusion of children below 12 years of age from employment and the question

of wages were considered. The Committee agreed to discontinue the employment of children who have not completed 12 years of age. As the fixation of minimum wage under the Minimum Wages Act, 1948 and the determination of fair wages by Wage Boards under the proposed Plantation Act will take time, an agreement on wages was reached which resulted in further increase of dearness allowance to the workers from 1st of May 1948. Dearness allowances to adult workers in tea plantation in Assam Valley, the Dooars and Terai has to be increased to $3\frac{1}{2}$ annas per day and 3 annas per day for Darjeeling and Cachar. Children between 12 and 18 are to be given 2 annas per day. Adult workers in coffee estates are to be given an increase of 3 annas and children $1\frac{1}{2}$ annas. In rubber estates, adults are to be given an increase of 2 annas and children 1 anna.

In connection with the formation of Standards for medical care for Plantation labour as decided in the first Plantation Conference, Major Lloyd Jones, Deputy Director General of Health Services (Social Insurance) visited the plantation areas in Assam, Bengal and South India and drew up, in consultation with the Provincial Governments and the Employers' Associations, Standards of Medical care for tea plantation labour, recommending provision of garden hospitals and dispensaries in the first stage and group and central hospitals in the second stage. The Report was discussed in the second meeting of the Industrial Committee. Indian Tea Association accepted the proposals while Indian Tea Planters Association criticised the same. Major Lloyd Jones met the criticisms in the meeting but there was no unanimous acceptance of the proposed Standards. Ultimately an agreement was reached that a cess should be imposed only on the gardens who did not join the Scheme and the Committee agreed that standards of medical care should be prescribed by law.

The meeting also agreed that the Standing Committee should consist of 12 members, 4 each from the employers, workers and the Government groups.

Outlines of Plantation legislation were placed in the meeting and approved. The proposed law will go a long way to improve the lot of plantation workers who are so long neglected. The Act will apply to tea, rubber, coffee and cinchona plantation and Provincial Government can extend it to other types of plantation with the approval of the Central Government. It provides for setting up of Housing Boards for acquiring and developing areas suitable for

construction of houses, raising of funds and carrying on research work on house construction. It empowers the Provincial Government to prescribe the plans and specifications, frame regulations regarding selection and preparation of sites and prescribe the extent and nature of employer's liability for providing houses to the workers. It lays down provisions for water supply, medical and health services, welfare services and sickness benefits. It contemplates constitution of Wage Boards for fixing and enforcing fair wages and inspection services at the cost of the employers for ensuring proper administration of the different provisions. It also provides for setting up of statutory Tripartite Board consisting of equal number of employers, workers and Government representatives for consideration of all matters excepting wage and hours of work. The normal working hours will be 8 a day. The Provincial Government can make rules providing for weekly rest, leave and holidays.

Maternity Benefit extended to Plantation Labour

Maternity benefit legislation was so long applicable to the factory labour only and there was no statutory obligation on the employer to pay maternity benefit to plantation labour. In Assam only women workers in plantations are entitled to maternity benefit under the law amounting Rs. 1/- per week before and Rs. 1-4-0 per week after confinement, total amount payable being Rs. 14/-. In October 1948 the Government of West Bengal passed a separate maternity legislation called West Bengal Maternity Benefit (Tea Estates) Act, 1948 (West Bengal Act No. XXXIII of 1948) for extending maternity benefit to women workers employed in tea factories and plantations. The Act has come into force from the 1st May, 1949 and provides for payment of maternity allowance at a rate of Rs. 5/4/- per week for a period of 12 weeks as has been provided in the Employees' State Insurance Act, 1948 (XXXIV of 1948).

Payment of Wages Act extended to Plantation Labour

As a first step in improving the conditions of labour in plantation and in giving effect to the recommendation of the Labour Investigation Committee, the Government of Madras has extended the provisions of the Payment of Wages Act to the plantation workers in the province with effect from April 1947. The Government of West Bengal also, by a notification dated 9th May 1949,

has extended the provisions of the said Act to the payment of wages to all classes of persons employed in the Tea Plantations in West Bengal.

TEA DISTRICTS EMIGRANT LABOUR ACT, 1932

(ACT No. XXII OF 1932)

Arrangement of Sections

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TEA DISTRICTS EMIGRANT LABOUR ACT, 1932 (XXII OF 1932)

*An Act to amend the law relating to emigrant labourers in the
tea districts of Assam*

Whereas it is expedient to amend the law relating to emigrant labourers in the tea districts of Assam ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY

1. Short title, extent and commencement—(1) This Act may be called the Tea Districts Emigrant Labour Act, 1932.

(2) It extends to ¹[all the Provinces of India], including the Sonthal Parganas.

(3) It shall come into force on such date as the ²[Central Government] may, by notification in the ³[official Gazette] appoint.

2. Definitions—In this Act, unless there is anything repugnant in the subject or context,—

(a) “tea district” means any of the following districts in the province of Assam, namely,—

Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara ⁴[and Cachar] and the Balipara Frontier Tract ;

(b) “tea estate” means an estate, situated in the tea districts, any part of which is used or is intended to be used for the cultivation or manufacture of tea or for any purpose connected therewith ;

(c) “recruiting province” means any province other than Assam ;

(d) “adult” means a person who has completed sixteenth year, and “child” means a person who is not an adult ;

¹ These words were substituted for the words “the whole of British India” by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

² These words were substituted for the words “Governor General in Council” by the Government of India (Adaptation of Indian Laws) Order, 1937.

³ These words were substituted for the words “Gazette of India”, *ibid.*

⁴ The words “and Cachar” were substituted for the words “Cachar and Sylhet” by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948

- (e) a "labourer" means an adult working on wages not exceeding fifty rupees a month, but does not include a clerk or domestic servant, or a mechanic, carpenter, mason, bricklayer or other artisan,
- (f) an "assisted emigrant" means an adult who, after the commencement of this Act, has left his home in any recruiting province or in any Indian State, is proceeding through any part of ¹[any Province of India] to any place in Assam to work as a labourer on a tea estate, and has received assistance from any person, but does not include any person who at any time within the two preceding years has worked as a labourer on a tea estate;
- (g) "assistance" means the gift or offer of any money, goods or ticket entitling to conveyance to any person as an inducement to such person to proceed to Assam to work as a labourer on a tea estate, and "assisted" and "with assistance" when used with reference to any person mean that such person has received assistance;
- (h) an "emigrant labourer" means a person who has last entered Assam as an assisted emigrant and is employed on a tea estate, and includes any person who, having accompanied an assisted emigrant to Assam as a child dependent on him, has become an adult and is so employed, but does not include any person who, at any time after his last entry into Assam and after he has become an adult, has taken employment not on a tea estate,
- (i) the "family" of any person includes the following, if living with him, namely,—
- (i) in the case of a male,—his wife and any child and aged or incapacitated relative dependent on him,
 - (ii) in the case of a married woman,—her husband and any child and aged or incapacitated relative dependent on her or on her husband, and
 - (iii) in the case of any other woman,—any child and aged or incapacitated relative dependent on her,

¹ These words were substituted for the words "British India", by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948

and in the case of an emigrant labourer, includes any person who, having accompanied him to Assam as a child dependent on him, has become an adult and is living with him ;

- (j) "employing interest" means any employer of labourers, or any group or association of such employers, and
- (k) "prescribed" means prescribed by rules made by the ¹[Central Government].

3. Appointment and status of Controller and Deputy Controllers.—(1) The ¹[Central Government] may appoint a person to be Controller of Emigrant Labour, to exercise the powers and discharge the duties conferred and imposed upon the Controller by or under this Act.

(2) The ¹[Central Government] may also appoint one or more Deputy Controllers of Emigrant Labour, who shall exercise such of the powers and discharge such of the duties of the Controller as the ¹[Central Government] may determine.

(3) The Controller may, from time to time and subject to the control of the ¹[Central Government] make a distribution of work as between himself and the Deputy Controllers

(4) The Controller and Deputy Controllers shall be deemed to be public servants within the meaning of the Indian Penal Code (XLV of 1860)

4. Powers of the Controller.—The Controller shall have power—

- (a) to enter—
 - (i) all open places on a tea estate,
 - (ii) any enclosed place on a tea estate where he knows or has reason to believe emigrant labourers are working or are accommodated,
 - (iii) any office of a tea estate,
 - (iv) any office or depot maintained by a labour recruiting agency, in Assam or in a recruiting province,
 - (v) any train, vessel or vehicle which he knows or has reason to believe is being used for the conveyance of assisted emigrants ;
- (b) to inspect, in any office or depot mentioned in sub-clause

¹ These words were substituted for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937

- (iii) and (iv) of clause (a) any register or other document required to be kept under this Act ;
- (c) to carry out in any place mentioned in clause (a) any inquiry which he may deem to be expedient for carrying out the purposes of this Act ; and
- (d) to do any other reasonable act which may be expedient in the discharge of his duties.

5. Emigrant labour cess.—(1) In order to meet expenditure incurred in connection with the Controller, the Deputy Controller and their staff, or under this Act, an annual cess shall be levied to be called the Emigrant Labour Cess.

(2) It shall be paid in respect of the entry into Assam of each assisted emigrant and shall be payable by the employing interest on whose behalf he was recruited.

(3) It shall be levied at such rate, not exceeding nine rupees, for each such emigrant as the ¹[Central Government] may, by notification in the ²[official Gazette] determine for the year of levy.

(4) The proceeds of the cess shall be credited to a fund, to be called the Emigrant Labour Fund, to be administered by the ¹[Central Government].

6. Power to make rules for the collection of the emigrant labour cess.—(1) The ¹[Central Government] may, by notification in the ²[official Gazette] make rules—

- (a) prescribing the agency which shall collect the Emigrant Labour Cess ;
- (b) prescribing the returns to be submitted to such agency by employers of emigrant labourers, and by persons who recruit or forward emigrant labourers, and the form and date of such returns ;
- (c) regulating the procedure of the collecting agency ;
- (d) prescribing the mode of payment of the cess ;
- (e) determining the date when any sum payable as cess shall be an arrear ;
- (f) declaring that an arrear of cess may be recovered as an arrear of land revenue and prescribing the procedure to be followed to secure such recovery ; and
- (g) generally, to secure the equitable collection of the cess.

¹ These words were substituted for the words "Governor General in Council", *ibid.*

² These words were substituted for the words "Gazette of India", *ibid.*

CHAPTER II.

REPATRIATION.

7. General right of repatriation after three years in Assam.

—Every emigrant labourer, on the expiry of three years from the date of his entry into Assam, shall have the right of repatriation as against the employer employing him at such expiry

8. Right to repatriation on dismissal.—(1) Any emigrant labourer who, before the expiry of three years from his entry into Assam, is dismissed by his employer, otherwise than for wilful and serious misconduct, shall have the right of repatriation against such employer

(2) Where any emigrant labourer is dismissed by his employer before the expiry of the three years from his entry into Assam, and his employer refuses or fails to repatriate him, the labourer may apply to the Controller, and the Controller, after such inquiry as he may think fit and after giving the employer an opportunity to be heard, may declare that the labourer has the right of repatriation against such employer.

9. Rights of repatriation of family of deceased emigrant Labourer. (1) Where an emigrant labourer other than a married woman living with her husband and having no child living with her dies within three years of his entry into Assam, the family of such labourer shall be entitled to be repatriated by the employer last employing him.

(2) Where such deceased labourer leaves a widow, she shall be deemed to be an emigrant labourer in whom a right of repatriation has arisen.

(3) Where there is no such widow, the Controller shall have all powers necessary to enforce the rights of the family under this section, and may take such action as he may deem to be expedient in their interests.

10. Right to apply for repatriation in certain circumstances.

—(1) An emigrant labourer may, before the expiry of three years from his entry into Assam, apply to the Controller for a declaration of his right to repatriation on any of the following grounds, namely,—

- (a) that his state of health makes it imperative that he should leave Assam, or
- (b) that his employer has failed to provide him with work

suated to his capacity, at the normal rate of wages for that class of work, or

(c) that his employer has unjustly withheld any portion of any wages due to him, or

(d) any other sufficient cause

(2) An emigrant labourer may, before the expiry of one year from his entry into Assam, apply to the Controller for a declaration of his right to repatriation on any of the following grounds, namely—

(a) that he was recruited by coercion, undue influence, fraud or misrepresentation, or

(b) that he was recruited otherwise than in accordance with the provisions of this Act and the rules made there-under.

(3) The Controller, after such inquiry as he may think fit and after giving the employer an opportunity to be heard, may declare that an emigrant labourer applying under this section has a right of repatriation against his employer.

Provided that a declaration in pursuance of clause (d) of subsection (1) may be made by the Controller only and not by any other officer exercising the powers of the Controller by or under this Act.

11. Power of Criminal Courts to order repatriation.—Where any employer of an emigrant labourer, or any agent of such employer in authority over such labourer, is convicted of any offence committed against such labourer and punishable under Chapter XVI of the Indian Penal Code (XLV of 1860) with imprisonment for one year or upwards, the convicting Court or the appellate Court or the High Court when exercising its powers of revision may declare that such labourer has a right of repatriation against such employer.

12. Incidents of the right of repatriation.—(1) When an emigrant labourer has a right of repatriation against any employer, the employer or his agent shall defray the cost of the return journey of the emigrant labourer and his family from the station nearest the employer's tea estate to the home of the labourer and shall provide subsistence allowances on the prescribed scale for such labourer and his family for the time requisite for him and his family to travel from such estate to his home:

Provided that where the emigrant labourer is a married woman living with her husband who is also an emigrant labourer, her right

of repatriation arising under section 7 shall extend only to herself and any children dependent on her :

Provided further that a married woman living with her husband is entitled to be treated as a member of his family notwithstanding that she is herself an emigrant labourer.

(2) In the event of any dispute regarding the cost of the return journey or subsistence allowances, the question shall be referred for decision to the Controller.

13. The discharge of an employer's duty to repatriate.

—(1) Within fifteen days from the date on which a right of repatriation arises to an emigrant labourer, or within such shorter period as the authority declaring such right may determine, the employer concerned shall, subject to any agreement under section 14, make all necessary arrangements for the homeward journey of the labourer and his family, and shall despatch them on their journey

Provided that an employer shall not be required to make such arrangements for or any payment in respect of any adult person who does not wish to leave Assam.

(2) Where an employer fails to comply with the provisions of sub-section (1), the right of repatriation of the emigrant labourer concerned shall not be affected, but the employer shall be liable to pay to the labourer one rupee for each day on which he is in default :

Provided that on application made to him by either party the Controller may direct that the labourer shall be paid at a lower rate than one rupee a day or at a higher rate not exceeding two rupees a day, and may also determine the number of days, being a reasonable number regard being had to all the circumstances of the case, for which the payment shall be made.

14. Postponement, waiver and forfeiture of the right.

—(1) An emigrant labourer may, by agreement with his employer, postpone his exercise of the right of repatriation, or may waive it conditionally or unconditionally, but no such agreement shall be valid unless it is in writing and in the prescribed form and has been made not more than one month before the right of repatriation arises :

Provided that the ¹[Central Government] may, by notifica-

¹ These words were substituted for the words "Governor General in Council", *ibid.*

tion in the ¹[official Gazette] make rules requiring that in any area such agreement shall be made in the prescribed manner before a prescribed authority and that the prescribed authority, if satisfied that the labourer understands the terms of his agreement, and his rights in regard to repatriation, shall ratify the agreement.

Provided further that after such rules come into force no such agreement shall be valid unless it is so made and ratified

(2) Where an emigrant labourer having a right to repatriation fails without reasonable cause to proceed on his homeward journey at the time arranged by his employer, the employer may notify the Controller of such failure, and the Controller, after such inquiry as he may think fit and after giving the labourer an opportunity to be heard, may declare that the labourer has forfeited his right of repatriation, and such labourer shall not be entitled to repatriation again as against any employer, save by an order of the Court under section 11.

15. Power of the Controller to enforce the provisions of this Chapter.—(1) Where the Controller, on information obtained from any source and after such inquiry as he may think fit and after giving the employer concerned an opportunity to be heard, is of opinion that an emigrant labourer is entitled to repatriation under any of the provisions of this Chapter, or is entitled to the payment of any sum of money under the provisions of sub-section (2) of section 13, the Controller may direct the employer concerned to despatch such labourer and his family or to pay him the sum of money within such period as the Controller may fix.

(2) If the employer fails to comply with such direction, the Controller may repatriate the labourer and his family or pay him the sum of money out of any funds at the Controller's disposal, and shall recover the costs incurred from the employer.

(3) For the purposes of such recovery the Controller may certify the costs to be recovered to the Collector, who shall recover the amount and may recover it as an arrear of land revenue.

(4) The Controller shall have similar powers in regard to any person in Assam who he knows or has reason to believe is a member of the family of a repatriated emigrant labourer who should have been repatriated along with such labourer.

¹ These words were substituted for the words "Gazette of India", *ibid.*

CHAPTER III.

CONTROLLED EMIGRATION AREAS

16. Power to declare controlled emigration areas —¹[(1) The Central Government may, by notification in the official Gazette, declare any area within a recruiting province to be a controlled emigration area, and thereupon the provisions of this Chapter shall apply to that area

Provided that the Central Government may, by the same or any subsequent notification, declare that any of the provisions of this Chapter shall not apply in that area, or shall apply subject to such general or special relaxations as may be specified.]

(2) A notification under sub-section (1) shall be expressed to take effect from a date not earlier than two months from the date of its publication, and during the said two months licences may be granted under section 17 and such licences shall be dated as being granted on the date on which the notification takes effect and shall not be valid until that date.

17. Power to grant licences to local forwarding agents. —(1) The ²[Central Government], or any District Magistrate empowered by it in this behalf, may grant a licence to any person to act as local forwarding agent in any part of a controlled emigration area, on behalf of an employer or employers of labourers.

(2) Such licences shall be granted only on the application of an employing interest.

(3) No such application shall be entertained unless the Controller has certified that the employing interest making the application has made proper provision, in accordance with section 20 and rules made under section 21, for the forwarding, accommodation and feeding of assisted emigrants on their journey to the tea estates on which they are to be employed.

(4) A local forwarding agent may be granted separate licences on applications by separate employing interests.

18. Recruits in controlled emigration areas to be sent to forwarding agents' depots. —(1) Whoever arranges with any person in a controlled emigration area that such person shall proceed to

¹ This sub-section was substituted by the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Local Government", *ibid.*

Assam with assistance, shall take or send such person, along with the members of his family who are to accompany him to Assam, to the depot of a local forwarding agent licensed for the area in which the arrangement was made, unless the arrangement was made at such a depot.

(2) Whoever arranges with any person in an Indian State that such person shall proceed to Assam with assistance and brings or sends such person and any of the members of his family into any controlled emigration area, shall take or send such person and members to the depot of a local forwarding agent licensed for that area.

(3) At every such depot proper arrangements shall be made for the accommodation and feeding of assisted emigrants and their families.

19. Assisted emigrants to be forwarded to Assam by local forwarding agents by prescribed routes.—An assisted emigrant and his family shall be forwarded to Assam from the depot of a local forwarding agent by such agent and only by such routes and in such manner as may be prescribed, by rules made under section 37, and shall be accompanied on their journey by a competent person deputed by the local forwarding agent

20. Maintenance of depots along prescribed routes.—Every employing interest which recruits labour in a controlled emigration area shall maintain or have the right to use depots at reasonable intervals on the prescribed routes by which it forwards assisted emigrants to Assam, for the accommodation and feeding of assisted emigrants and their families.

21. Power of ¹[Central Government] to make rules.—(1) The ¹[Central Government] may, by notification in the official Gazette, make rules—

- (a) prescribing the form and particulars of licences to be granted to local forwarding agents, and the annual fees, not exceeding ten rupees, which may be levied from persons holding such licences ;
- (b) prescribing returns relating to assisted emigrants and their families which shall be made by local forwarding agents and the registers and the form thereof which shall be maintained by such agents ;

¹ These words were substituted for the words "Local Government", *ibid*

- (c) prescribing the scales of diet which shall be provided for assisted emigrants and their families at depots,
- (d) prescribing the accommodation which shall be provided for assisted emigrants and their families at depots, and the sanitary and medical arrangements at such depots,
- (e) providing for the detention, for a period not exceeding three days, at depots of local forwarding agents of women unaccompanied by their husbands who propose to proceed to Assam as assisted emigrants, and for investigation into their circumstances;
- (f) prescribing the information which shall be supplied by local forwarding agents to assisted emigrants regarding the conditions of life and work on tea estates, and the methods in which it shall be supplied;
- (g) providing for any other matter which in the opinion of the ¹[Central Government] may be required to give effect to the provisions of this Chapter.

(2) In making rules under clause (b), clause (e), clause (f) or clause (g) of sub-section (1), the ¹[Central Government] may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees.

22. Inspection of depots, vessels and vehicles.—(1) The Civil Surgeon, the District Magistrate or the Sub-divisional Magistrate, or any Magistrate or police officer not below the rank of Inspector, deputed by the District Magistrate or the Sub-Divisional Magistrate, may enter a local forwarding agent's depot, or any depot maintained by an employing interest on a prescribed route to Assam, and inspect the accommodation, feeding arrangements, and sanitary arrangements provided for assisted emigrants and their families and all registers and other documents required to be maintained or kept by or under this Act and shall record the results of such inspection in a book to be kept in such depot for the purpose.

(2) The Civil Surgeon or such Magistrate or person deputed may also enter and inspect any vessel, train or vehicle on which assisted emigrants are travelling, or on which he has reason to believe that any assisted emigrant is travelling whether along a prescribed route or not.

¹ These words were substituted for the words "Local Government", *ibid.*

23. Action where proper arrangements not made for assisted emigrants.—If the ¹[Central Government] is satisfied that an employing interest recruiting assisted emigrants in a controlled area is not making proper provision for the forwarding, accommodation or feeding of such emigrants and their families on their journey to A-sam, ²[the Central Government may] direct all District Magistrates concerned to cancel or suspend all licences under section 17 held by local forwarding agents on behalf of such employing interest

Provided that the ¹[Central Government] shall not ³[direct the cancellation of any] of licences under this section until he has given the employing interest concerned an opportunity to submit its explanation

24. Cancellation of licences.—(1) The ⁴[Central Government] may cancel wholly or in part any licence granted to a local forwarding agent, and a District Magistrate may cancel wholly or in part any licence granted by him to a local forwarding agent,—

- (a) if, in the opinion of the ⁴[Central Government] or of the District Magistrate, as the case may be, such agent has been guilty of misconduct or wilful default or negligence in the discharge of the duties imposed upon him by or under this Act, or
- (b) if the employing interest, on whose application the licence was granted, has applied to the ⁴[Central Government] or to the District Magistrate, as the case may be, for the cancellation of the licence, or
- (c) if, in the opinion of the ⁴[Central Government] or of the District Magistrate, as the case may be, an employer on whose behalf the agent is licensed to act has been guilty of misconduct, or wilful default or negligence in the discharge of the duties imposed upon him by or under this Act :

Provided that no licence shall be cancelled under clause (a) until the holder thereof has or under clause (c) until the holder thereof

¹ These words were substituted for the words "Governor General in Council", *ibid.*

² These words were substituted for the words "he may require the Local Government", *ibid.*

³ These words were substituted for the words "make any requisition for the cancellation of", *ibid.*

⁴ These words were substituted for the words "Local Government", *ibid.*

and the employer concerned have had an opportunity to show cause against the cancellation

Provided further that a cancellation under clause (c) shall, where the agent is licensed to act on behalf of more than one employer, operate only to prevent the agent from acting on behalf of the employer held guilty.

(2) A local forwarding agent whose licence has been cancelled by a District Magistrate under clause (a) of sub-section (1), or any employing interest on whose behalf he acts, may, within three months from the date of the District Magistrate's order, appeal to the ¹[Central Government], whose decision shall be final

25. Penalty for illicit abetment of emigration.—Where any person who is required to be taken or sent to a local forwarding agent's depot in any district under section 18 leaves that district on his journey to Assam without being so taken or sent, or, being an assisted emigrant, proceeds to Assam otherwise than in accordance with section 19, or by any route other than a route prescribed under section 37, any person who abets him in so leaving the district or in so proceeding to Assam, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER IV

26. Power to declare restricted recruiting areas. ²[(1) The Central Government may by notification in the official Gazette, declare any controlled emigration area or any part of a controlled emigration area within a recruiting province to be a restricted recruiting area, and thereupon the provisions of this Chapter shall apply to that area :

Provided that the Central Government may, by the same or by subsequent notification, declare that any of the provisions of this Chapter shall not apply in relation to that area, or shall apply subject to such general or special relaxations as may be specified.]

(2) A notification under sub-section (1) shall be expressed to take effect from a date not earlier than two months from the date of its publication, and during the said two months licences may

¹ These words were substituted for the words "Local Government", *ibid.*

² This sub-section was substituted, *ibid.*

be granted under section 27 or certificates may be granted and endorsements made under section 28, and such licences, certificates and endorsements shall be dated as being granted or made on the date on which the notification takes effect and shall not be valid until that date

27. Grant of licences to recruiters.—(1) Subject to rules made under sub-section (2) and sub-section (3), the District Magistrate may grant a licence to any person to act as recruiter in the whole or any part of his district.

(2) The ¹[Central Government] may, by notification in the official Gazette, make rules prescribing the qualifications for persons who may be granted licences under this section

(3) ²[The Central Government] may, by notification in the official Gazette, makes rules ³[as respects any restricted recruiting area]—

(a) regulating the procedure of the District Magistrate in granting such licences,

(b) prescribing the form and particulars of such licences, and the fees, not exceeding ten rupees, to be paid therefor.

28. Grant of certificates to garden-sardars.—(1) Subject to rules made under sub-section (2), the owner or manager of a tea estate may grant a certificate to any person employed on such estate as a labourer or in a position of supervision or management empowering him to recruit labour for such estate in the whole or any part of a restricted recruiting area, and such person shall thereupon be entitled to recruit labour for such estate as a garden-sardar in the area specified :

Provided that the Central Government having jurisdiction over any restricted recruiting area may, by notification in the official Gazette, make rules ³[as respects any restricted recruiting area] directing that certificates of garden-sardars or of specified classes of garden-sardars shall not be valid in any district in any such area until they have been endorsed as valid for that district by the District Magistrate or a Magistrate authorised by the District Magistrate in this behalf.

¹ These words were substituted for the words "Governor General in Council", *ibid*.

² These words were substituted for the words "The Local Government having jurisdiction over any restricted recruiting area", *ibid*

³ These words were inserted, *ibid*

(2) The ¹[Central Government] may make rules ²[for Assam]

(a) regulating the procedure of owners and managers in granting and withdrawing such certificates

(b) prescribing the form and particulars of such certificates.

29. Cancellation and suspension of recruiter's licence.—The District Magistrate may, for reasons to be recorded by him, cancel or suspend the licence of a recruiter on the ground of his misconduct or wilful neglect or default in the discharge of the duties imposed on him by or under this Act

Provided that no licence shall be cancelled under this section until the holder thereof has had an opportunity of showing cause against the cancellation.

30. Cancellation of garden-sardar's certificate.—(1) The District Magistrate of any district in respect of any part of which a garden-sardar holds a certificate may cancel the certificate if he is satisfied that the garden-sardar has contravened any of the provisions of this Act or of the rules made thereunder.

(2) A District Magistrate cancelling a certificate under sub-section (1) shall record his reasons, and shall send intimation of his action to the District Magistrate of every other district in respect of any part of which the certificate was valid and to the person who granted the certificate.

31. Penalty for illicit recruitment.—Whoever, not being a licensed recruiter holding a licence under section 27, or a garden-sardar holding a valid certificate under section 28, or a local forwarding agent holding a licence under section 17, in any part of a restricted recruiting area gives or offers any money or goods to any person, or defrays or offers to defray any travelling expenses of any person, as an inducement to such person to proceed to Assam as an assisted emigrant, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER V.

SUPPLEMENTAL.

32. Prohibition of the recruitment of children.—(1) No person shall in any way assist a child to proceed from any recruiting pro-

¹ These words were substituted for the words "Local Government of Assam", *ibid.*

² These words were inserted, *ibid.*

vince to Assam, to work in any capacity on a tea estate, unless such child is accompanied by a parent or other adult relative on whom he is dependent, and no person shall so assist a married woman who is living with her husband unless she is so proceeding with the consent of her husband

(2) Any person who knowingly contravenes the provisions of this section shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

33. Power to detain and return sick persons.—(1) Where it appears to the Controller that any person proceeding to a tea garden with assistance, or any member of the family of such person, is suffering from an infectious or contagious disease, or is not in a fit state of health to proceed on his journey, the Controller may—

- (a) detain such person and his family,
- (b) send the sufferer for medical treatment to a hospital or dispensary or other suitable place, and
- (c) cause all necessary arrangements to be made for the accommodation and feeding of the other members of the party so detained,

and all arrangements for such detention and treatment shall be made by and at the cost of the employing interest on whose behalf such person was recruited.

(2) Where it appears that a sufferer detained under sub-section (1) is not likely to be in a fit state of health to proceed on his journey within a reasonable time the Controller may direct that he and the other members of his party detained with him shall be returned to the home of the person proceeding with assistance by and at the cost of the employing interest on whose behalf such person was recruited

34. Power to return person improperly recruited.—Where it appears to the Controller after such inquiry as he thinks fit to make that any person proceeding to a tea estate with assistance—

- (a) has been recruited by coercion, undue influence, fraud or misrepresentation, or
- (b) has been recruited or forwarded otherwise than in accordance with the provisions of this Act and the rules made thereunder,

the Controller may direct that such person and his family shall if

such person so desires be returned to his home by and at the cost of the employing interest in whose behalf he was recruited

35. Power to enforce the Provisions of sections 33 and 34.—(1) If an employing interest fails to make arrangements to the satisfaction of the Controller for the detention or treatment of any person detained under sub-section (1) of section 33, the Controller may himself make such arrangements and defray the cost out of any funds at his disposal.

(2) In making a direction under sub-section (2) of section 33 or under section 34 the Controller may fix a period within which such person and family shall be forwarded by the employing interest concerned, and shall send a copy of his direction to the employing interest concerned, and to the nearest agent, if any, of such employing interest in the province where such person then is

(3) If the employing interest fails to comply with the direction within the time fixed, the Controller may cause such person and his family to be returned to his home and defray the costs out of any funds at the Controller's disposal.

(4) The Controller shall recover any costs incurred by him under this section from the employing interest concerned, and for the purposes of such recovery may certify the costs to be recovered to the Collector of any district in which a tea estate belonging to the employing interest concerned, or to any member thereof, is situated, and the Collector shall recover the amount and may recover it as an arrear of land-revenue.

(5) Any costs so certified may, where the employing interest concerned is a group or association of employers, be recovered from any one of such employers.

36. Magistrates and medical officers who may exercise the powers of the Controller.—(1) Subject to the provisions of sub-section (3) of section 10, any District Magistrate in Assam may exercise in respect of his district any power which the Controller by or under this Act could exercise in such district.

(2) The Controller may transfer any proceeding under Chapter II pending before him to the District Magistrate having jurisdiction under sub-section (1) to dispose of it.

(3) ¹[The Central Government may invest a District Magistrate or a Sub-Divisional Magistrate in any recruiting province and a Sub-

¹ These words were substituted for the words "The Local Government of a recruiting province . Sub-Divisional Magistrate", *ibid*.

Divisional Magistrate in Assam] with any of the powers of the Controller under section 4 or section 33 or section 34 or section 35 in respect of his district or sub-division, as the case may be

(4) The ¹[Central Government] may invest any medical officer not below the rank of Assistant Surgeon with any of the powers of the Controller under section 33 and section 35

37. Power of ²[Central Government] to make rules. —(1) The ¹[Central Government] may, by notification in the Gazette of India, make rules—

- (a) regulating the procedure of the Controller and of person exercising the powers of the Controller in the exercise of their powers under this Act ;
- (b) where there are more authorities than one exercising any of the powers of the Controller in the same area, regulating the exercise of their powers by such authorities ;
- (c) prescribing scales of subsistence allowances for the purposes of section 12 ,
- (d) prescribing the form of agreements under section 14 ,
- (e) prescribing the routes by which assisted emigrants may be forwarded from districts in controlled emigration areas to tea districts ;
- (f) prescribing the manner in which assisted emigrants and their families shall be forwarded to Assam from the depots of local forwarding agents ;
- (g) prescribing the action to be taken by local forwarding agents and by persons in charge of depots on prescribed routes where an assisted emigrants or a member of his family appears to be suffering from infectious or contagious disease or where an assisted emigrant appears to have been recruited by coercion, undue influence, fraud or misrepresentation, or to have been recruited or forwarded otherwise than in accordance with the provisions of this Act and the rules made thereunder ;
- (h) directing that employers of emigrant labourers shall keep registers of such labourers and their families, and prescribing the form of such registers ;

¹ These words were substituted for the words "Local Government", *ibid*

² These words were substituted, for the words "Governor General in Council", *ibid*

(i) directing that employing interests which recruit emigrant labourers shall keep registers of such labourers, and their families, and of their journeys to and from Assam and, prescribing the form of such registers,

(j) requiring employers of emigrant labourers and employing interests which recruit emigrant labourers to submit such return in respect of such labourers as the ¹[Central Government] may think expedient for carrying out the purposes of this Act, and

(k) generally, to carry out the purposes of this Act

(2) The ²[Central Government] may, by notification in the official Gazette, make rules ³[for Assam] requiring employers of labourers on tea estates to submit returns of wages and earnings of labourers employed by them

(3) ⁴[Rules made under this section] may provide that a contravention thereof shall be punishable with fine which may extend to five hundred rupees.

38. Powers to extend the scope of this Act.—(1) The ¹[Central Government] may, by notification in the official Gazette, declare that the provisions of this Act shall apply in respect of any lands and premises in Assam other than tea estates, and thereupon the provisions of this Act shall apply in all respects to such lands and premises as if they were tea estates.

(2) ⁵[The Central Government] may, by notification in the official Gazette, declare that the provisions of this Act shall apply in any area in Assam other than the districts specified in clause (a) of section 2, and thereupon the provisions of this Act shall apply in all respects to such area as if it were a tea district.

39. Saving for acts done in good faith under the Act.—No suit, prosecution or other legal proceeding shall lie against any

¹ These words were substituted for the words "Governor General in Council", *ibid*

² These were substituted for the words "Local Government of Assam", *ibid*.

³ These words were inserted, *ibid*.

⁴ These words were substituted for the words "In making rules under sub-section (1) . . . the Local Government", *ibid*

⁵ These words were substituted for the words "subject to the control . . . Local Government of Assam", *ibid*.

person for anything which is in good faith done or intended to be done under this Act

40. Bar of jurisdiction of Civil Courts.—No Civil Court shall have jurisdiction—

(a) to deal with or decide any question which the Controller is, by or under this Act, empowered to deal with or to decide, or

(b) to enforce any liability incurred under this Act

41. Repeal of Act VI of 1901 and certain consequences.

—(1) The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof

(2) The Assam Labour Board constituted under section 116A of the Assam Labour and Emigration Act, 1901, is hereby dissolved.

(3) All accumulations of the cess leviable under section 116E of the said Act are hereby transferred to the credit of the Emigrant Labour Fund, subject to the payment of all outstanding claims payable out of the said accumulations.

THE SCHEDULE.

(See section 41.)

Year.	No.	Short title	Extent and repeal.
1	2	3	4
1901	VI ..	The Assam Labour and Emigration Act, 1901	The whole
1908	XI ..	The Assam Labour and Emigration (Amendment) Act, 1908	The whole
1915	VIII ..	The Assam Labour and Emigration (Amendment) Act, 1915.	The whole
1920	XXXVIII	The Devolution Act, 1920.	In Part I of the First Schedule, the entry relating to the Assam Labour and Emigration Act, 1901 (VI of 1901)
1927	XXXI ..	The Assam Labour and Emigration (Amendment) Act, 1927.	The whole.

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TEA DISTRICTS EMIGRANT LABOUR RULES, 1933¹

CHAPTER I.

SHORT TITLE AND DEFINITIONS

1. *Short title.*—These rules may be called the Tea Districts Emigrant Labour Rules, 1933.

2. *Definitions.*—In these rules unless there is anything repugnant in the subject or context,—

(a) "the Act" means the Tea District Emigrant Labour Act, 1932 (XXII of 1932) ;

¹ These Rules were published with the Government of India, Department of Industries and Labour, Notification No. L3021 (2), dated the 3rd July 1933 as amended up to date.

- (b) "Cess" means the Emigrant labour cess levied under section 5 of the Act ;
- (c) "the Controller" means the Controller of Emigrant Labour appointed under the Act ;
- (d) "employer" includes the principal officer of a company or association of individuals owning a tea estate ,
- (e) "escort" means the competent person deputed by the local forwarding agent under section 19 of the Act to accompany assisted emigrants and their families on journey to Assam ;
- (f) "Form" means a form appended to these rules ,
- (g) "manager" means the principal person for the time being in charge of any tea estate ;
- (h) "medical officer" means the nearest medical officer exercising within the area in question any of the powers of the Controller, or where no medical officer exercises any of these powers, the Civil Surgeon ;
- (i) "person in charge" means the local forwarding agent in respect of the depot in his charge and includes the person in charge of a depot maintained under section 20 of the Act ,
- (j) "section" means a section of the Act.

CHAPTER II

APPLICATIONS UNDER SECTION 17

3. *Form of certificate under section 17 (3).*—Certificates granted by the Controller under section 17 (3) shall be in Form A.

4. *Application for certificate under section 17 (3).*—(1) Every application for a certificate in Form A shall be submitted to the Controller.

(2) Every such application shall specify the controlled emigration areas or parts thereof within which the employing interest proposes that the local forwarding agents who may be licensed on its behalf shall be employed, and the areas in Assam to which it is proposed that those agents shall be at liberty to forward assisted emigrants. It shall also contain particulars of the provision made for the forwarding, accommodation and feeding on their journey to Assam of assisted emigrants recruited by or on behalf of the employing interest presenting the application.

5. Forwarding of copies of certificates by Controller—The Controller shall forward a copy of every certificate in Form A granted by him to the District Magistrate of every district forming the whole or part of every controlled emigration area specified in the certificate.

6. Applications for local forwarding agents' licences—(1) All applications for licences under section 17 (1) shall be submitted through the Controller.

(2) All applications so submitted shall specify the area within which the persons for whom the licences are desired are intended to act as local forwarding agents and the number of the certificate in Form A held by the applicant.

(3) The Controller, if he is satisfied that the applicant holds a valid certificate in Form A, shall forward the applications to District Magistrate empowered to grant the licences and may add any observations relating to matters lying within his knowledge which bear on the fitness or unfitness of any person named in the application to receive a license.

7. Employing interest ceasing to make proper provision.—If the Controller considers that any employing interest in whose favour he has granted a certificate in Form A has ceased to make proper provision for the forwarding, accommodation or feeding on their journey to Assam of assisted emigrants recruited by that employing interest, he shall forward a report to the ¹[Central Government] stating the manner in which and the extent to which such proper provision has not been made.

8. Non-renewal of licences—No licence which is under suspension by virtue of an order of the ¹[Central Government] under section 23 shall be renewed while so suspended.

CHAPTER III.

COLLECTION OF CESS AND CERTIFICATES OF EMIGRATION

9. Method of collection of cess—The Cess shall be collected by the Controller by means of the sale of certificates of emigration.

10. Form and issue of certificates—(1) Certificates of emigration shall be on a stamped paper in Form B obtained from the Controller and no certificate shall be valid unless the particulars in Part I of the certificate have been filled in before issue.

¹ These words were substituted for the words "Governor General in Council", *ibid.*

(2) Certificates of emigration shall be issued by the Controller either on payment for each certificate of the sum determined under sub-section (3) of section 5 as the rate for the time being of the Cess, or on credit as provided by rule 12.

11. Employing interest to supply certificates—(1) Every assisted emigrant shall be provided by the employing interest on whose behalf he was recruited with a certificate of emigration

(2) Certificates of emigration may be used only by or on behalf of the employing interest to whom they are issued, and no certificate of emigration shall be valid if it relates to an assisted emigrant or emigrant labourer recruited by or on behalf of any other employing interest

12. Issue of certificates on credit—(1) Employing interests at whose instance local forwarding agents have received licenses valid within any controlled emigration area may apply to the Controller for the issue on credit of certificates of emigration, and, save as provided by sub-rules (2) and (3), the Controller shall comply with such request.

(2) The Controller may decline to supply on credit at any one time a larger number of certificates than is, in his opinion, likely to be required by the employing interest during the following three months.

(3) The Controller may decline to supply on credit any certificates to an employing interest which has within the preceding two years defaulted in paying for the certificates as or when required or which has, in his opinion, been responsible for any serious irregularity in the use of the certificates or in the submission of information required in connexion therewith.

(4) Employing interests receiving certificates of emigration on credit shall not be provided with such certificates on payment; and certificates issued on credit may be used in any area, whether that area is a controlled emigration area or not.

13. Account of certificates.—(1) Every employing interest receiving certificates shall send to the Controller on or before the date specified in column 2 below a statement in Form C in respect of the period specified in column 1 below:—

Period.	Date.
April, May, June	15th July
July, August, September	15th October
October, November, December	15th January.
January, February, March ..	15th April

(2) Employing interests receiving certificates of emigration on credit shall forward with the statement payment for every certificate shown therein as utilized at the rate prescribed for the Cess at the time when the certificate was issued to the emigrant

14. Entries in Part II of certificates—(1) Before forwarding as an assisted emigrant any person who is brought to his depot under section 18, the local forwarding agent shall have the entries made in Part II of the emigrant's certificate of emigration and shall sign it

(2) If any person who is not required by section 18 to be taken to the depot of a local forwarding agent, is so taken, the local forwarding agent, before forwarding that person as an assisted emigrant, if the entries in Part II of the emigrant's certificate of emigration have not previously been made, shall have those entries made and shall sign the certificate

(3) If an assisted emigrant or intending assisted emigrant who is not required by section 18 to be taken to the depot of a local forwarding agent has not been so taken, the employing interest on whose behalf he was recruited or some one authorized to act on behalf of that employing interest shall have the entries made in Part II of the emigrant's certificate and shall sign the same —

(a) before any assistance is given by or on behalf of that employing interest to the emigrant ; and

(b) before any money, goods or travelling tickets are given by or on behalf of that employing interest to any person who has assisted the emigrant

15. List of certificates—The person signing any certificates of emigration under rule 14 shall forward on the same day to the Controller a list of the certificates in Form D signed by him giving the particulars required by that Form.

Provided that no list of certificates need be prepared or sent when a way bill in Form F is required to be sent, or is sent on the day on which the certificates are signed.

16. Retention and production of certificates during journey—

(1) When any assisted emigrants are accompanied by an escort on their journey to Assam, their certificates of emigration and the list of their certificates or the way-bill containing the numbers of these certificates, as the case may be, shall be supplied by the person signing the certificates to the escort.

(2) The escort to whom any certificates of emigration are supplied under sub-rule (1) of this rule, or any escort to whom the charge of

accompanying the assisted emigrants may subsequently be transferred, shall retain during the journey the certificates and the list of certificates or way-bill, as the case may be and shall produce them on demand, at any time and at any place where the assisted emigrants are for the time being, before the Controller or any officer authorized by him in writing or any person authorised by or empowered under section 36 to exercise any of the powers of the Controller

(3) An escort required by any officer under sub-rule (2) of this rule to produce a certificate of emigration shall, if so required, produce before that officer the assisted emigrant to whom it refers and the members of his family whose names are entered on the certificate.

(4) When any assisted emigrant is not accompanied by an escort on his journey to Assam, his certificate of emigration shall be given to him before he is forwarded and shall be retained by him throughout the journey and produced on demand at any time and at any place where the assisted emigrant is for the time being, before the Controller or any officer authorized by him in writing or any person authorized by or empowered under section 36 to exercise any of the powers of the Controller.

17. Entries to be made on arrival in Assam—On the arrival of an assisted emigrant at a depot in Assam, the person in charge of the depot shall, if these entries have not previously been made at any other depot in Assam, make the entries in Part III of his certificate of emigration

18. Entries to be made on arrival on tea estate.—(1) When an assisted emigrant arrives on a tea estate the manager shall make the entries in Part IV of his certificate of emigration and, if this has not already been done, in Part III of that certificate and if the certificate is in the possession of the emigrant on his arrival on the tea estate may demand it for the purpose of making these entries.

(2) After making the entries required by sub-rule 1 and within 48 hours of the assisted emigrant's arrival on the tea estate the manager shall give him his certificate of emigration, and it shall not thereafter be demanded or retained by the employer or the manager or any of their agents except as provided by rule 19.

19. When manager may hold certificates—(1) The manager of any tea estate on which an emigrant labourer is subsequently employed may retain his certificate of emigration for the purpose of making an entry in Part V thereof during the first 48 hours of the emigrant labourer's residence on the tea estate.

(2) A manager who is about to repatriate an emigrant labourer may for the purpose of making an entry in Part VI thereof require his certificate of emigration to be surrendered to him at any time within the 48 hours preceding the labourer's departure from the tea estate on his journey to his home.

20. *Assisted emigrants arriving on tea estate without certificates*—(1) If any assisted emigrants arrive on a tea estate from a recruiting province without certificates of emigration, the manager shall forthwith send a report of the circumstances to the Controller together with a sum equivalent to the Cess on each such emigrant and shall at the same time furnish to the Controller in respect of each such emigrant was recruited, the names of the person or persons responsible for forwarding the emigrant, the date of the emigrant's entry into Assam and his arrival on the tea estate and the particulars necessary for completing Part II of the emigrant's certificate.

(2) The Controller on receiving such a report and the sum may take such action as he thinks fit in respect of the breach of the rules and shall issue to the manager a certificate of emigration for each emigrant mentioned in the report

21. *Entry into Assam without certificate*—(1) The Controller may present the employing interest by or on whose behalf any emigrant labourers were recruited a demand for the payment of the cess on any such labourer who has entered Assam without a certificate, and may require the said employing interest to furnish him with the names of the person or persons responsible for forwarding the emigrant labourer, the date of the labourer's entry into Assam and his arrival on the tea estate and the particulars necessary for completing Part II of the labourer's certificate of emigration.

(2) The Controller on receiving the said payment and particulars may take such action as he thinks fit in respect of the breach of the rules and shall issue a certificate of emigration for the labourer to the manager of the tea estate to which the labourer was sent.

22. *Delivery of certificate by manager.*—The manager of a tea estate on receipt of a certificate of emigration under rule 20 or rule 21 shall, after making the entries in Parts III and IV, and within 24 hours of its receipt deliver it to the labourer and it shall not thereafter be demanded or retained by the employer or the manager or their agents except as provided by rule 19.

23. *Certificate to be of correct year*—Subject to the provisions of rules 24 and 25 no certificate of emigration shall be valid unless

the emigrant to whom it refers enters Assam during the year entered in Part I of the certificate.

24. Use of certificate of preceding year—If the rate of the Cess for any year is the same as that for the preceding year, all certificates of emigration valid for the preceding year shall be valid also for the subsequent year

25. Labourer entering Assam in different year from that of certificate—(1) If an emigrant labourer who has been provided with a certificate of emigration of any year in the expectation that he would enter Assam in that year enters Assam in a different year —

- (a) the certificate of emigration shall, subject to any directions issued by the Controller, be treated as valid, and
- (b) the difference between the Cess payable on that emigrant's entry and the amount paid for his certificate shall be refunded by the Controller or recovered from the employing interest as the case may be.

(2) Where under sub-rule (1) an amount is due to be refunded to or recovered from an employing interest receiving certificates of emigration on credit the amount of the refund or recovery shall be adjusted in the first payment due under rule 13 in the year of entry of the emigrant labourers in respect of whose certificates the refund or recovery is due.

(3) Where under sub-rule (1) an amount is due to be refunded to or recovered from an employing interest not receiving certificates on credit the Controller shall remit any refund due to the employing interest, and the employing interest shall remit the amount of any recovery to the Controller with a statement in Form E.

26. Action following alteration in rate of Cess.—If the rate of the Cess is altered, every employing interest receiving certificates of emigration during the year preceding that to which the altered rate is applicable shall send, on or before the 1st October of the year to which the altered rate is applicable, a statement in Form E

27. Return and recall of certificates.—(1) The employing interest shall return to the Controller any certificates of emigration issued to it which have ceased to be valid by reason of a change in the rate of the cess.

(2) Certificates which cannot be used by reason of being defaced or torn or of the failure of the emigrant for whom they were prepared to enter Assam may be returned to the Controller.

(3) The Controller, after giving not less than one month's notice and making such arrangements for the provision of fresh certificates as may be necessary, may recall any or all of the certificates in the possession of any or all employing interests and any certificates so recalled shall be returned to the Controller within 15 days of the receipt of notice

(4) If any certificates returned under this rule were issued on payment the Controller shall refund to the employing interest concerned the amount paid on the certificates

Provided that the Controller may deduct a sum not exceeding two annas for each certificate returned under sub-rule (2)

(5) If any certificates returned under sub-rule (2) were issued on credit the Controller may require that a sum not exceeding two annas for each certificate shall be paid by the employing interest concerned and this sum shall be forwarded with the next following statement due under sub-rule (1) of rule 13.

28. Recovery of Cess.—(1) Any payment due under this Chapter on account of the Cess shall be deemed to be an arrear if it is not paid on the date specified in these rules, or where no date is specified, before the expiry of ten days from the receipt of a demand from the Controller

(2) An arrear of Cess shall be recoverable as an arrear of land revenue.

(3) The Controller may certify any sum forming the whole or part of an arrear of Cess to the Collector of any district in which the defaulting employing interest or any member of it has any property, and the Collector shall proceed to recover the sum certified and shall remit the sum recovered to the Controller.

CHAPTER IV.

FORWARDING OF ASSISTED EMIGRANT

29. Application of Chapter.—The rules in this Chapter apply only to the forwarding of assisted emigrants who are required to be taken or sent to a local forwarding agent's depot under section 18.

30. Despatch of emigrants.—The local forwarding agent shall despatch an assisted emigrant on his journey to Assam within 48 hours of his arrival at the depot unless the emigrant is detained

under the provision of section 33, section 34 or section 35, or unless the local forwarding agent considers it necessary to detain the emigrant longer owing to his sickness or in order to investigate the circumstances of his recruitment or for other sufficient reason or unless the emigrant is rejected as unsuitable for work on the tea estate for any reason

31. *Permissible routes to Naihati or Parbatipur*—(1) The permissible routes for the forwarding of assisted emigrants from controlled emigration areas are those specified in the Schedule appended to these rules.

(2) Except as provided by sub-rule (3) the journeys between any places specified in the Schedule appended to these rules shall be performed by rail and by the most direct route

(3) The journeys from the depot of the local forwarding agent by whom the emigrant has been despatched to the first of the points through which an emigrant must pass in accordance with the Schedule appended to these rules shall be made by rail from the railway station nearest the depot or from such other railway station as the Controller may approve for this purpose in the case of any depot specified in his order and by the most direct route

Provided that if the Controller is satisfied that, in consequence of a breach in the line or other cause, a permissible route cannot conveniently be followed, he may, by order valid for such period not exceeding one month as he may direct, permit the use of any alternative route specified in his order.

Provided further that assisted emigrants may be sent between Howrah and Naihati either by rail from Howrah *via* Bandel or by rail from Sealdah.

32. *Permissible routes from Naihati or Parbatipur*.—(1) Assisted emigrants leaving or passing through Naihati shall be forwarded by rail by the most direct route to Goalundo or to Tejpur or to Amingaon.

(2) Assisted emigrants leaving or passing through Goalundo, shall be forwarded by boat to Chandpur and thence by rail *via* Akhaura or by boat to Amingaon.

(3) Assisted emigrants leaving or passing through Parbatipur shall be forwarded by rail by the direct route to Amingaon.

Provided that emigrants proceeding to tea estates in the Goalpara, Kamrup or Darrang Districts or in the Balipara Frontier Tract

may be forwarded from Golakganj to the tea estate by the most direct route.

33. *Way-bills*—(1) Every local forwarding agent forwarding assisted emigrants to Assam shall prepare three copies of a way-bill in Form F correctly filled in and signed by him in respect of each estate to which emigrants are being sent

(2) One copy of the way-bill shall be given to the escort accompanying the emigrants and shall be retained by him or any subsequent escort throughout the journey to the tea estate, a second copy shall be sent to the Controller on the day on which the emigrants are despatched and the remaining copy shall be retained by the local forwarding agent in his depot for a period of not less than four years

Provided that where a register is maintained giving an accurate reproduction of the particulars given in the schedule of the way-bill, and its serial number, it shall not be necessary to retain a copy of the way-bill in the depot.

34. *Escorts' badges*—The local forwarding agent shall issue to each escort employed for the purpose of accompanying assisted emigrants from his depot a badge bearing the name of the depot and a separate serial number, and the escort shall wear this badge in a conspicuous manner while accompanying assisted emigrants.

35. *Detraining of emigrants*.—When assisted emigrants are forwarded by train, the escort shall, unless he has the general or special sanction of the Controller to the contrary, detrain them at least once every 24 hours for the purpose of enabling them to have a cooked meal outside their compartments. He shall also detrain them for a rest of at least 9 hours in every 48 hours of travel by rail

36. *Lepers*.—No forwarding agent shall forward to Assam either as an assisted emigrant or as a member of the family of an assisted emigrant any person whom he knows or has reason to suspect to be suffering from leprosy.

CHAPTER V.

PROCEDURE TO BE FOLLOWED ON THE OCCURRENCE OF DEATH OR INFECTIOUS OR CONTAGIOUS DISEASES

37. *Outbreak of infectious or contagious disease*.—(1) If cholera, small-pox, plague, enteric, influenza or other serious epidemic, in-

fectious or contagious disease occurs in any depot in which assisted emigrants or members of their families are usually accommodated the person in charge of the depot shall take immediate steps to secure the removal of the person attacked to the nearest available hospital accommodating infectious or contagious cases or to such other place as the medical officer may have approved for the purpose and shall report the occurrence without delay to the medical officer.

(2) If cholera, small-pox, plague, enteric, influenza or other serious epidemic, infectious or contagious disease occurs among assisted emigrants or their families while on a journey, the escort shall at once report the occurrence to the medical officer and arrange for the removal, as soon as possible, of the person attacked to the nearest available hospital accommodating infectious or contagious cases or to such other place as the medical officers may have approved for the purpose. He shall take the remaining emigrants to the nearest depot maintained or used by the employing interest concerned.

(3) All cases of and deaths from cholera, small-pox, plague, enteric and influenza shall be notified at once to the medical officer.

(4) The person in charge of a depot shall maintain a separate register for cases of and deaths from such diseases.

(5) The person in charge of a depot shall provide clean towels and basins in sufficient numbers at the depot and shall stock therein sufficient quantities of disinfectants such as chlorinated lime, permanganate of potash, cyllin and cyllin soap.

(6) The person in charge of a depot shall carry out all instructions given to him by the medical officer in connexion with any infectious or dangerous disease which has broken out at the depot.

38. Segregation sheds.—(1) A permanent segregation shed with sufficient accommodation for at least ten patients shall be provided for each depot at such distance from the quarters used for the accommodation of emigrants as the medical officer may direct such segregation sheds shall be fly-proofed if the medical officer so directs.

(2) The controller may exempt any depot from the necessity of having a permanent segregation shed or may reduce the scale of accommodation to be supplied.

(3) On the outbreak at a depot of cholera, small-pox or other dangerous infectious disease, the medical officer may, if he is satisfied that the existing provision is likely to prove inadequate, require the person in charge to erect or secure further temporary accommodation for the segregation and treatment of patients or contact cases.

39. Arrangements for disposal of bodies—The person in charge of a depot shall make all necessary arrangements for the disposal, either by burning or burial, of the bodies of assisted emigrants or members of their families, or intending assisted emigrants, in his charge, who die either in his depot or in the hospital, and shall defray all expenses connected therewith

40. Death of assisted emigrants—If an assisted emigrant dies in a depot or in a hospital or during a journey by road, rail or steamer the person in charge of the depot or the escort, as the case may be, shall hand over the property of the deceased emigrant to his relatives if any are present. If no relation is present or if there is any dispute among the relatives present, the person in charge of the depot or the escort shall make a list of the property and forward it with the list to the nearest District or Sub-division Magistrate, who shall, after making enquiry as to the heirs dispose of the property.

CHAPTER VI

REGISTERS AND RETURNS

41. Register of Emigrant Labourers—(1) The employer or manager of every tea estate which employs emigrant labourers shall maintain at the estate a register of emigrant labourers and their families in Form G.

(2) The register in Form G shall be preserved for at least seven years after the last entry recorded in it.

42. Repatriation Return.—The employer or manager of every tea estate which has during the twelve months ending on 30th September in any year employed any emigrant labourers shall send to the Controller on or before the 1st of December in that year a return in Form H of all such labourers and their families, who have been repatriated under the provisions of Chapter II of the Act during the said twelve months

CHAPTER VII

PROCEEDING BEFORE THE CONTROLLER OF OTHER OFFICERS

43. Presentation of applications.—(1) An application to the Controller for the exercise of any power conferred on him by Chapter II of the Act may be presented in person or by post—

(a) at the office of the Controller or to the Controller himself at any place where he is for the time being, or

(b) to the District Magistrate of the district in which the labourer to whom it relates is employed.

(2) Applications shall be made in writing and shall bear the signature or thumb impression of the applicant

Provided that if the officer to whom the application is presented is within the tea estate in which the labourer to whom it relates is employed, the application may be made orally and if so made shall be reduced to writing and attested under his supervision

44. Forwarding of applications to Controller—When the District Magistrate receives an application under clause (b) of rule 43, he shall forward it to the Controller in any of the following cases, namely.—

- (a) if at the time of its receipt the Controller is in the district and has previously intimated his arrival or intention to arrive in the district to the District Magistrate ;
- (b) if the Controller has intimated to the District Magistrate that he will be staying in the district within a period of 20 days ;

Provided that in this case the District Magistrate may dispose of the application if he is of opinion that it is urgently necessary that the application should be disposed of before the Controller is likely to reach the district ;

- (c) if it is an application for a declaration in pursuance of clause (d) of sub-section (1) of section 10 ;
- (d) if, for special reasons to be recorded, he considers it desirable that the application should be placed before the Controller.

45. Disposal of applications.—(1) The District Magistrate shall dispose of—

- (a) any application received under clause (b) of rule 43 which is not forwarded to the Controller under rule 44 ; and
- (b) any application, whether presented originally to him or to the Controller, which is transferred to him under sub-section (2) of section 36

(2) All other applications to the Controller for the exercise of a power conferred by Chapter II of the Act shall be disposed of by the Controller.

46. Procedure—Enquiries held under the Act by the Controller may be held summarily and evidence taken need not be recorded. Where, however, an application made to him for a declaration or direction under Chapter II of the Act is opposed, he shall record the substance of the points on which the parties are at variance and the reasons for his declaration or direction.

47. Orders—(1) Any declaration, direction or order by the Controller in any proceedings under the Act shall be in writing

(2) Every such order shall be communicated to the parties concerned without delay.

48. Copy to be sent to Government of India—A copy of every order passed under clause (d) of sub-section (1) of section 10, with the reasons therefor, shall be forwarded by the Controller to the Secretary to the Government of India in the Department of Labour.

49. Copies—Copies of any part of the record made under rule 46 and of any declaration, direction or order made by the Controller shall be furnished to any person concerned on payment of such fee as the Controller may fix.

50. Meaning of "the Controller".—In rules 46, 47 and 49, the expression "the Controller" shall be deemed to include any person exercising the powers of the Controller under the Act

51. Return of applications decided—When a District Magistrate disposes of any applications under the provisions of sub-rule (1) of rule 45 he shall send to the Controller a statement in Form I at the close of the month in which orders were passed on such applications.

CHAPTER VIII

OFFENCES AND IRREGULARITIES

52. Action by Controller on offences punishable with imprisonment.—(1) If it appears to the Controller that an offence punishable under the Act with imprisonment has been committed he shall send a report to the District Magistrate of a district in which the offence can be tried and may file a complaint in the Court of any Magistrate in the same district having jurisdiction to try the offence

(2) If he has filed such a complaint he shall in his report inform the District Magistrate accordingly.

(3) If he does not file such a complaint, he shall in his report say, whether in his opinion, the offender should or should not be prosecuted and the District Magistrate, after any further inquiry that he deems necessary, shall institute proceedings or not as he deems fit, and shall inform the Controller accordingly.

53. *Action by Controller on offences punishable with fine —*

(1) If it appears to the Controller that an offence punishable with fine only has been committed he shall, if he considers that the offender should be prosecuted, either send a report to the District Magistrate of any district in which the offence can be tried or file a complaint in the Court of any Magistrate having jurisdiction to try the offence

(2) A District Magistrate receiving a report under sub-rule (1) shall, after any further enquiry that he deems necessary, institute proceedings or not, as he thinks fit, and shall inform the Controller accordingly

54. *Saving* —Nothing in rules 52 and 53 shall be deemed to prevent the institution of proceedings at any stage by complaint or otherwise by any person in any court having jurisdiction to try an offence under the Act or these rules.

55. *Action by depot officers in case of improper recruitment.—*

(1) Where a local forwarding agent or a person in charge of a depot or a manager receives a complaint or has otherwise reason to believe that a person who has been brought to him and who is proceeding to a tea estate or who has reached the tea estate with assistance—

(a) has been recruited by coercion, undue influence, fraud or mis-representation, or

(b) has been recruited or forwarded otherwise than in accordance with the provisions of the Act and the rules made thereunder,

he shall report the circumstances without delay to the Controller and to the nearest Magistrate exercising the powers of the Controller under section 34 within that area, and may, pending the receipt of any order under section 34, return the person improperly recruited and his family to their home if such person so desires

(2) In cases, where an offence under section 25 or section 32 appears to have been committed, the local forwarding agent or the person in charge of a depot or a manager shall record the statement of any persons who are able to give information relevant to the commission of the offence.

(3) In other cases the local forwarding agent may forward the person and his family to Assam if they are willing to proceed there and if, in the case of persons suspected to have been recruited by coercion, undue influence, fraud or misrepresentation, he is satisfied that they are no longer under any fear or misapprehension.

56. Issue of orders under Section 34—(1) When any report is sent under rule 55 to a Magistrate and to the Controller, any necessary orders under section 34 shall be issued by the Magistrate receiving the report and not by the Controller, provided that the Magistrate may, and, if the Controller is in the vicinity of the depot, shall refer any such case to the Controller. When any such reference is made to him, the Controller may dispose of the case himself or return it to the Magistrate for disposal.

(2) When any order is passed either on the receipt of a report under rule 55 or on other information by a Magistrate exercising the powers of the Controller under section 34 such Magistrate shall send a copy of the order to the Controller.

(3) When it appears to the Controller or any Magistrate exercising the powers of the Controller under section 34 that in any case not reported under rule 55 an order under section 34 is necessary the order may notwithstanding the provisions of sub-rule (1) be issued by him.

Provided that no order shall be issued by any such officer if another such officer has previously investigated the matter :

Provided further that the Controller instead of issuing orders may report the matter to any Magistrate empowered to deal with it for such action as that Magistrate deems necessary.

57. Punishments for contraventions of Rules.—(1) Whoever contravenes any of the provisions of rules 11 or 15 shall be punishable with fine which may extend to five hundred rupees.

(2) Whoever contravenes any of the provisions of Chapter VI of these rules shall be punishable with fine which may extend to two hundred rupees.

(3) Whoever, not being an escort, contravenes any of the provisions of rules 14, 16, 17, 18, 20 (1), 22, 26, 27, 55, 60 (2), or of Chapter IV or Chapter V of these rules shall be punishable with fine which may extend to two hundred rupees.

(4) Whoever, being an escort, contravenes any of the provisions of these rules shall be punishable with fine which may extend to fifty rupees

CHAPTER IX.

MISCELLANEOUS.

58. Subsistence allowance.—The subsistence allowance provided under section 12 shall be at the rate of six annas a day for each adult and three annas a day for each child

Provided that if an emigrant labourer is repatriated through the organisation by which he was originally sent to Assam, meals of the type and the scale prescribed for the upward journey may be supplied in lieu of cash subsistence allowances.

59. Agreements under section 14—(1) Agreements under section 14 shall be in Form J.

(2) The employer or manager of the tea estate, on which the emigrant labourer executing the agreement was employed at the time the agreement was made, shall retain the agreement for not less than two years from the date of its execution and shall, if so required by the Controller or any officer exercising the powers of the Controller under section 4, produce it at any time during that period

(3) If the agreement is conditional it shall be prepared in duplicate and a copy shall be given to the emigrant labourer executing it.

60. (1) Right of repatriation arising in family of deceased labour.—(1) Where a right of repatriation arises under section 9 in respect of a widow, an agreement by the widow under section 14 (1) shall be made before the District Magistrate or such other Magistrate as he may appoint in this behalf, who shall, if he is satisfied that the widow understands the terms of the agreement and her rights in regard to repatriation ratify the agreement by endorsing a statement to this effect upon it.

(2) Where an emigrant labourer dies before the expiry of three years from his entry into Assam, the manager of the tea estate on which the emigrant labourer was employed shall send to the Controller within three days of the labourer's death a report of the fact by registered post, giving the name, age and sex of each member

of the family, and may with the report submit for the Comptroller's approval proposals for the action to be taken in respect of the family.

SCHEDULE.

(See Rule 31)

Permissible Routes from Controlled Emigration Areas to Naihati and Parbatipur

When the depot of the local forwarding agent despatching the emigrants is in	The route shall pass through the following places
1 The Madras Presidency	Berhampur, Khargpur, Howrah, Naihati
2 The Nagpur Division of the Central Provinces	(1) Gondia, Raipur, Chakardharpur, Khargpur, Howrah, Naihati, or (2) Gondia, Raipur, Chakardharpur, Purulia, Asansol, Bandel, Naihati
3 The Jubbulpore Division of the Central Provinces	(1) Katni, Allahabad, Asansol, Bandel, Naihati, or (2) Katni, Bilaspur, Chakardharpur, Khaigpur, Howrah, Naihati, or (3) Gondia, Bilaspur, Chakardharpur, Khargpur, Howrah, Naihati, or (4) Katni, Bilaspur, Chakardharpur, Purulia, Asansol, Bandel, Naihati, or (5) Gondia, Bilaspur, Chakardharpur, Purulia, Asansol, Bandel, Naihati
4 The Chattisgarh Division of the Central Provinces	(1) Chakardharpur, Khargpur, Howrah, Naihati, or (2) Chakardharpur, Purulia, Asansol, Bandel, Naihati
5 Sambalpur District	(1) Chakardharpur, Purulia, Asansol, Bandel, Naihati, or (2) Chakardharpur, Khargpur, Howrah, Naihati
6 The Orissa Division of Bihar and Orissa except Sambalpur.	Khargpur, Howrah, Naihati.
7. Hazaribagh and Palamau districts	Asansol, Bandel, Naihati.
8 The Chota Nagpur Division of Bihar and Orissa except Hazaribagh and Palamau	(1) Asansol, Bandel, Naihati, or (2) Khargpur, Howrah, Naihati.
9. Any part of Bihar and Orissa not specified above.	(1) Katihar, Parbatipur, or (2) Asansol, Bandel, Naihati, or (3) Rampurhat, Bandel, Naihati.
10 The United Provinces ...	(1) Katihar, Parbatipur, or (2) Asansol, Bandel, Naihati.
11. The Presidency and Burdwan Divisions of Bengal	Naihati.

FORM A.

TEA DISTRICTS EMIGRANT LABOUR ACT

Certificate granted under section 17 (3).

Number of certificate..... ..

I certify that the following employing interest, namely.... ..
 has made proper provision, in accordance with
 section 20 of the Tea Districts Emigrant Labour Act and rules
 made under section 21 of that Act for the forwarding, accommoda-
 tion and feeding of assisted emigrants on their journey from the
 controlled emigration areas (or parts thereof) hereinafter specified to
 all the tea districts of Assam.

the tea districts (or parts thereof) hereinafter specified
 Controlled Emigration Areas Tea Districts.
 (or parts thereof)

Dated

Controller of Emigrant Labour.

FORM B.

CERTIFICATE OF EMIGRATION (OBVERSE).

EMIGRANT LABOUR CESS.

(Stamp).

PART I.

Serial number

Valid for year ending

19

Issued to

PART II

Personal particulars of emigrant.

Name.... Father's name
 Husband's
 Age..... Sex Caste
 Village..... Post Office.....
 Police station District
 Name of recruiter (if any).....

Particulars of height and distinguishing marks	Right and left thumb impressions.
--	-----------------------------------

Members of family* accompanying emigrant:—

Name.	Age	Sex.	Relationship.

Serial number of way bill or
 list of certificates.....
 Place of making entries.....

(Sd.)

Designation

Date

CERTIFICATE OF EMIGRATION (REVERSE).

PART III.

Arrival in Assam.

This emigrant arrived in Assam on day of

19

Date

(Sd.)

Place

Designation

* See Section 2 (i) of the Act.

PART IV.

Arrival on Tea estate.

This labourer arrived on this tea estate on the day of

19

Estate

(Sd.)

Manager,

Date

PART V.

Details of employment.

(These entries are optional and may be made when a labourer is employed on an estate other than the estate mentioned in Part IV).

(a) This labourer was taken into employment on the under-mentioned estate on 19

Estate

(Sd)

Manager,

Date

(b) This labourer was taken into employment on the under-mentioned estate on 19

Estate

(Sd.)

Manager,

Date

PART VI.

Repatriation.

(These entries are optional and may be made when the holder is proceeding out of Assam).

This labourer leaves this tea estate to-day on his journey to Estate

(Sd.)

Manager,

Date

FORM C.

Return for the quarter ending _____ of certificates of emigration received, used and held by _____

- (1) Number of certificates held at close of previous quarter, as per Schedule appended
- (2) Number of certificates received during quarter, as per Schedule appended
- (3) Add (1) and (2)
- (4) Number of certificates used during quarter, as per Schedule appended
- (5) Number of certificates held at close of quarter
- (6) Amount of remittance enclosed Rs. _____

Signature _____

Date _____

SCHEDULE SHOWING SERIAL NUMBERS OF CERTIFICATES

1	2
Serial numbers of certificates held at end of previous quarter	Serial numbers of certificates used during quarter.

Serial numbers of certificates received during the quarter

NOTE.—Numbers in column 2 should be entered opposite the same numbers in column 1.

FORM D.

LIST OF CERTIFICATES OF EMIGRATION ISSUED IN FAVOUR OF ASSISTED EMIGRANTS

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Serial No of emigrant	Serial No. of emigration certificate.	Date of arrival at Depot.	Name of emigrant or member of family.	Father's Name Husband's Name	Caste	Age.	Sex	Distinguishing marks	Relationship of members of family to emigrant	Home Village	Police Station	District	How recruited	Name and number of escort.	Remarks.

NOTE.—In the case of a female emigrant labourer, the letter H or F should be prefixed to the entry in column 5 to indicate whether it is her husband or father

Total number of Emigration Certificates. . . .

Date.....

(Sd.)
Local Forwarding Agent.

FORM E.

RETURN OF EMIGRANT LABOURERS ENTERING WITH CERTIFICATES
NOT VALID FOR YEAR OF ENTRY

	Names	Date of issues	Serial number
I Labourers entering with certificates of years preceding year of entry			
Total			
II Labourers entering with certificates of year following year of entry			
Total			

Rs

Charges on account of certificates—

(a) in list I

(b) in list II

Total

Emigrant Labour cess on account of labourers—

(a) in list I

(b) in list II

Total ...

Amount due $\frac{\text{to}}{\text{from}}$

employing interest

Rs.

Dated

Signature.

FORM F.

Way Bill of Emigrants forwarded by Local Forwarding Agents
to Assam Employing interest represented.

Way Bill No. despatched on to
Tea Estate Calcutta Agents Route

NOTE—In the case of members of the emigrant's family accompanying him,
entries need be made only in columns 4, 7, 8 and 10.

1	2	3	4		5	6	7	8	9	10	11	12	13	14	15	16
Serial No of emigrant	Serial No of emigration certificate.	Date of arrival at Depot	Name of emigrant or member of family		Father's Name. Husband's Name	Caste	Age	Sex	Distinguishing marks	Relationship of members of family to emigrant	Home Village	Police Station	District	How recruited.	Name and number of escort	Remarks
			Assisted	Not assisted												

Total number of Emigration Certificates NOTE.—In the case of female emigrant labourer, the letter H or F should be prefixed to the entry in column 5 to indicate whether it is her husband or father.

Date.....

(Sd.)

Local Forwarding Agent.

FORM G.

FORM OF REGISTER OF EMIGRANT LABOURERS EMPLOYED ON TEA ESTATE

1	Serial No.	
2	No of certificate of emigration	
3	Name of labourer	
4	Father's name	
5	Caste.	
6	Home village.	
7	Police station.	
8	District	
9	Names of members of family residing with him	
10	Relationship to labourer	
11	Depot from which forwarded under sections 18 and 19	
12	Date of entry of labourer into Assam	
13	Date of arrival on garden	
14	Particulars of previous employment in Assam if known, if labourer was not recruited direct from recruiting province	
15	Date of repatriation and how effected, i.e. whether through forwarding agency or by employing interest direct	
16	If repatriation is waived or postponed, date of execution of document under sec 14	
17	Remarks	

FORM H.

RETURN OF REPATRIATION OF EMIGRANT LABOURERS

Number of certificate of emigration 1	Name of Emigrant Labourer 2	Father's Name Husband's Name 3	Date of entry into Assam 4	Depot from which recruited 5	Date of repatriation 6	If repatriated through a Forwarding Agency, state which Agency 7	Names of members of family repatriated with emigrant labourer 8	Relationship 9	Remarks 10

N.B.—In the case of a female emigrant labourer, the letter H or F should be prefixed to the entry in Column 3 to indicate whether it represents her husband or her father.

FORM I.

TEA DISTRICTS EMIGRANT LABOUR ACT

Applications under Chapter II of the Act disposed of by the District Magistrate of _____ during the month of _____ 19 ____.

Tea estate.	Applicant.	Section.	Sub-section.	Clause	Decision.

(Sd.).....

District Magistrate.

FORM J

FORM OF AGREEMENT UNDER SECTION 14 OF THE TEA DISTRICTS
EMIGRANT LABOUR ACT

Name of estate
 Postal address
 Name of emigrant labourer.....
 Father's name....
 Date of entry into Assam
 Name of estate to which the emigrant was originally
 recruited
 Date on which right of repatriation arises.
 Reason for which the right has arisen or will arise

*Details of members of the family of the emigrant labourer
 entitled to be repatriated with him*

Name	Age	Sex	Relationship

FORM TO BE SIGNED BY THE EMIGRANT LABOURER

I,, son of,
 being entitled to repatriation under Chapter II of the Tea Districts
 Emigrant Labour Act do hereby postpone my right till (on account of
~~waive my right~~
 the following consideration received from my employer):—
~~to be received~~

[2. My waiver is subject to the following conditions:—]

Signature or thumb impression of emigrant labourer

Date.....

Signature of witness.....

Date.....

() To be omitted where no consideration is received.

[] To be omitted if no conditions are imposed.

FORM TO BE SIGNED BY THE EMPLOYER OR MANAGER OF THE TEA ESTATE

I agree to and confirm the above statement made by

2. I hereby declare that the contents of this document were read out and explained to _____ in his own language before he ^{signed it} _____ and I believe that he understood their import.

 affixed his thumb impression

Signature of Employer or Manager of Tea Estate

Date.. .. .

Signature of witness

Date

RATE OF EMIGRANT LABOUR CESS.

In exercise of the powers conferred by sub-section (3) of section 5 of the Tea Districts Emigrant Labour Act, 1932 (XXII of 1932), the Central Government is pleased to fix three rupees as the rate of the Emigrant Labour Cess to be levied in respect of the entry into Assam of each assisted emigrant for the year commencing 1st October 1948 and ending 30th September, 1949.

MINING LEGISLATION

Early Mining Legislation.

Mining industry was introduced in India early in the nineteenth century, but the Government did not then consider the necessity of regulating employment of labour in mines. The first Act concerning the mines was passed in 1901 (VIII of 1901) on the basis of the Report of Mining Committee appointed in 1895 and the Act came into force on 22nd March 1901. The main object of the Indian Mines Act, 1901 was to solve the problems of health and safety of the miners. It applied to all excavations which were 20 feet and undertaken in search of minerals. It empowered the Government of India to appoint Chief Inspector of Mines and the Provincial Governments for the appointment of inspecting staff. It authorised the Chief Inspector to prohibit employment of child (a person under 12 years of age) and woman in mines which were dangerous to their health and safety. Infringement of the provisions were punishable by a fine of Rs. 500 or imprisonment not exceeding 3 months or both. The serious defect of the Act was the absence of any statutory limitation to working hours.

Indian Mines Act, 1923 (IV of 1923).

The first attempt to regulate the condition of employment in mines was made in the Indian Mines Act, 1923 to carry out the recommendation of the Washington Conference. The definition of the term "mine" was extended to include any excavation irrespective of depth for obtaining minerals. It prohibited the employment of children under 13 years below the ground. The Act prescribed a compulsory weekly holiday for all miners. The weekly hours of work were limited to 54 below ground and 60 above ground. It authorised the Central Government to prohibit the employment of women underground. Mining legislation is applicable to the whole of India and its administration is chiefly the concern of the Government of India.* For the administration purposes, a large number of rules and regulations have been made relating to the health and safety in mines and prescribing conditions to make the mining operation as safe as possible. The inspection and super-

vision are carried on by (1) Inspectorate, (2) Mining Boards, (3) Committee, (4) Court of Enquiry. The Manager in charge of mine is required to keep adequate supply of drinking water and to make provision for sanitary arrangements and when notified to keep first aid medical appliances, stores, stretchers etc. ready at hand. Abstract of the Act, regulations and rules have to be posted at or near every mine. Infringement of major provisions is punishable with a fine of Rs 500. The chief defect of the Act of 1923 was the absence of the statutory limitation of daily hours of work.

Indian Mines (Amendment) Act, 1928 (XIII of 1928).

The Act came into force on 1st April 1930, laid down that no mine could work more than 12 hours out of 24 hours with the same set up workers and that there should not be any over lapping of shifts. Every mine should maintain a register of workers and their hours of work.

Prohibition of Women's Underground Work, 1929.

The Government of India, promulgated Regulations under section 29 of the Indian Mines Act, 1923, on 7th March 1929 prohibiting underground employment of women in all mines from 1st July 1929. After the adoption of Underground Work (Women) Convention (No. 45) by the International Labour Conference in 1935, the Government of India revised the Regulation of 1929 and prohibited the underground employment of women in mines from 1st July 1937. Due to shortage of labour and fall in coal output the Government of India temporarily lifted the ban in coal mines in August 1943. The ban was reimposed from 1st February 1946.

Indian Mines (Amendment) Act, 1931 (XXI of 1931).

The Act was again amended in 1931 for some minor purposes for determining the jurisdiction of the Court to try cases concerning mines.

Indian Mines (Amendment) Act, 1935 (V of 1935).

On the basis of the recommendations of the Royal Commission on Labour and in the light of the Draft Convention of the Fifteenth Session of the International Labour Conference, the Government of India framed a new Bill further to amend the Act. The Bill was

passed in 1935 and came into force from 1st October 1935. The amending Act regulated the hours of work above ground to 54 a week and 10 a day with at least one hour's rest for six hours work, and for work underground to 54 in a week and 9 a day. The minimum age for admission of children to employment in mines was raised to 15 years. It provided equal number of representatives of mines and the mine-owners on the Mining Board. It prescribed the maintenance of accident register and submission of record of accidents incapacitating person for 24 hours or more to the Chief Inspector of Mines twice a year.

Indian Mines (Amendment) Act, 1936 (XI of 1936).

The amendment was made for securing greater safety and providing adequate safeguards against fire in mines. The power of the Inspectorate was temporarily enlarged to include the issue of orders to individual mines to take precautionary measures in case of collapse of any part of a mine. The Government of India was also authorised to make regulations requiring groups of mines to establish rescue stations and to provide for the formation, training and duties of rescue brigade.

Indian Mines (Amendment) Act, 1937 (XXIX of 1937).

The amendment was undertaken with a view to give effect to the recommendations of the Coal Committee appointed on 19th October 1936 and to bring about certain changes in the light of new experiences. The Act made permanent the powers of the Inspectorate to issue orders to individual mines where danger was apprehended. It permitted the Inspectorate to disclose evidence of danger to adjacent mines to persons likely to be affected. A duty on coal and coke was levied to defray the cost of rescue stations. The establishment of Boards of Health is an important provision of the Act. These Boards adequately look after the health of workers and have powers to compel mine owners to maintain good housing conditions, water supply, sanitation and medical help.

Indian Mines (Amendment) Act, 1940 (XXIV of 1940).

The Act required the owner of the coal mine to pay the salary and wages of the manager and the supervisory staff instead of coal raising contractors. Its main purpose was that the supervisory

staff which would have to make necessary measure for the safety of the mines would be directly responsible to the owner.

Indian Mines (Amendment) Ordinance, 1945 (XVII of 1945).

It is an important piece of legislation providing maintenance of creches in mines and amends sections 30 and 31 of the Act. It empowers the Central Government to make rules requiring the maintenance of suitable rooms for use of children in mines where women are ordinarily employed. Under this amendment, the Central Government promulgated Mines Creche Rules 1946¹

Indian Mines (Amendment) Act, 1946 (II of 1946).

The amended Act conferred on the Central Government rule-making power to require the colliery owners to erect in their mines separate bathing place with shower baths and separate locker rooms, for men and women employed in the mine on a scale laid down by the rules and to maintain them at prescribed standard. The object of pit-head bath is to ensure that a miner should go home clean after his days' work. The Advisory Committee of the Coal Mines Welfare Fund have agreed that it is the responsibility of mine owners to provide bathing facilities for men and women working under ground. Government of India has promulgated Coal Mines Pithead Bath Rules¹ in 1946 under this Act.

Mines (Amendment) Bill, 1947.²

An unofficial Bill has been introduced in the Legislative Assembly in 1947 which seeks to reduce the working hours from 54 to 40 and daily hours to 8 for both surface and underground workers and to give an interval of rest for one hour after 4 hours of work.

Bureau of Mines.

The Government of India has decided to set up a Bureau of Mines to co-ordinate mineral production and to introduce and enforce compliance with the law or regulations under which mining operation are undertaken or carried on.

¹ See Mines Welfare Legislation.

² For Statement of Objects and Reasons, see Gazette of India, Part V, 22nd February, 1947, p. 140.

Five-year Plan of the Government of India.

The Government of India in consultation with Provincial and State Governments proposes to bring about an effective improvement in the working conditions and standards of living of workers in mines on the basis of the factual data collected by the Labour Investigation Committee. It is proposed to revise the Mines Act to reduce the hours of work both above and underground so as to bring it in conformity with the reduction of hours in respect of factories and to incorporate the provisions regarding holidays with pay and monetary relief during sickness. The existing Act is inadequate in respect of provisions relating to labour. The Mines Inspectorate mainly look to the adoption of safety measures and not to other provisions relating to health, hours of work etc. The inspection of mine was inadequate and strict enforcement of the Act was not done due to inadequate staff. Expansion of the Mines Inspectorate is proposed for frequent inspection and strict enforcement of law. Institution of training courses for mines and introduction of more mechanical appliances are also contemplated.

Revision of Mines Act.

Standing Labour Committee

Revision of the Mines Act was discussed in the Ninth Meeting of the Standing Labour Committee held in July 1946. After the passing of the Factories Amendment Act of 1946 reducing the working hours in factories, the Government brought proposal for reduction of hours of work and in mines. No tentative decision was arrived at in the meeting.

Industrial Committee on Coal Mining

Government's proposal for amendment of the Mines Act was discussed in the First Meeting of the Industrial Committee on Coal Mining held at Dhanbad on the 23rd and 24th January, 1948. Far reaching amendments were proposed to improve the conditions of work of colliery workers and these relate to reduction of working hours and age limit for workers, provision of sanitary conveniences and the rate for overtime work as suggested by the Conciliation Board which reported in May, 1947. Diarchical control of certain kinds of colliery workers under the provisions of the Factories Act and Mines Act is to be abolished. Workshops run for the maintenance of the

machinery and plant in mines in safe and efficient working order, which are now subject to the Factories Act, will be brought within the scope of the Mines Act. Power stations utilised for generating power used wholly in the mines, are also proposed to be brought within the scope of the amendment.

INDIAN MINES ACT, 1923 (IV OF 1923)

Arrangement of Sections

CHAPTER I.

PRELIMINARY

1. Short title, extent and commencement.
2. (Repealed).
3. Definitions.

CHAPTER II.

INSPECTORS

4. Chief Inspector and Inspectors.
5. Functions of Inspectors.
6. Powers of Inspectors of Mines.
7. Powers of special officer to enter, measure, etc.
8. Facilities to be afforded to Inspectors.
9. Secrecy of information obtained.

CHAPTER III.

MINING BOARDS AND COMMITTEES

10. Mining Boards.
11. Committees.
12. Powers of Mining Boards.
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MINING OPERATIONS AND MANAGEMENT OF MINES

14. Notice to be given of mining operations.
15. Managers.
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17. Conservancy.
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- 26A. Young persons not to be allowed underground without certificates of fitness.
27. Disputes as to age.
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29. Power of Central Government to make regulations.
30. Power of Central Government to make rules.
- 30A. Power of the Central Government to require rescue stations to be established.

- 31. Prior publication of regulations and rules.
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- 34. Obstruction.
- 35. Falsification of records, etc
- 36. Omission to furnish plans, etc.
- 37. Contravention of provisions regarding employment of labour.
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- 41. Prosecution of owner, agent or manager.
- 42. Limitation of prosecutions.
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- 44. Reference to Mining Board or Committee in lieu of prosecution in certain cases.

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- 45. Decision of question whether a mine is under this Act.
- 46. Power to exempt from operation of Act.
- 47. Power to alter or rescind orders.
- 48. Application of Act to Crown Mines.
- 49. Saving.
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INDIAN MINES ACT, 1923 (IV OF 1923)¹

An Act to amend and consolidate the law relating to the regulation and inspection of mines.

Whereas it is expedient to amend and consolidate the law relating to the regulation and inspection of mines It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Indian Mines Act, 1923.

(2) It extends to [all the Provinces of India]² including the Sonthal Parganas

(3) It shall come into force on the first day of July, 1924.

2. Saving of Regulation XII of 1887. Omitted by para 3 and Schedule I of the Government of India (Adaptation of Indian Laws) Order, 1937.

3. Definitions.—In this Act, unless there is anything repugnant in the subject or context—

(a) “agent”, when used in relation to a mine, means any person appointed or acting as the representative of the owner in respect of the management of the mine or of any part thereof, and as such superior to a manager under this Act ;

(b) “Chief Inspector” means the Chief Inspector of Mines appointed under this Act ;

¹[(c) “child” means a person who has not completed his fifteenth year]

⁵[(cc) “day” means a period of twenty-four hours beginning at midnight]

¹ For Statement of Objects and Reasons, see Gazette of India, 1922, Pt. V, p. 327, and for the Report of Joint Committee, see *ibid*, 1923, Pt. V, p. 25

The Act has been declared in force in the district of Khondmals by Regulation IV of 1936, s. 3 and Sch and in the Angul district by Regulation V of 1936, s. 3 and Sch

² These words were substituted for the words “the whole of British India” by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

³ The words “British Baluchistan” were omitted, *ibid*.

⁴ This clause was substituted by s. 2 of the Indian Mines (Amendment) Act, 1935 (5 of 1935).

⁵ This clause was inserted, *ibid*.

¹[(²ccc) "District Magistrate" means, in a Presidency-town the person appointed by the ³[Central Government] to perform the duties of a District Magistrate under this Act in that town]

(d) a person is said to be "employed" in a mine who works under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations ;

(e) "Inspector" means an Inspector of Mines appointed under this Act, and includes a District Magistrate when exercising any power or performing any duty of an Inspector which he is empowered by this Act to exercise or perform ;

(f) "mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes all works, machinery, tramways and sidings, whether above or below ground, in or adjacent to or belonging to a mine .

Provided that it shall not include any part of such premises on which a manufacturing process is being carried on unless such process is a process for coke making or the dressing of minerals ;

(g) "owner", when used in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof, but does not include a person who merely receives a royalty, rent or fine from the mine, or is merely the proprietor of the mine subject to any lease, grant or licence for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine ; but any contractor for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability ;

(h) "prescribed" means prescribed by regulations, rules or bye-laws ;

(i) "qualified medical practitioner" means any person registered under the Medical Act, 1858 (21 and 22 Vict., c. 9), or any Act

¹ This clause was inserted by s. 2 of the Indian Mines (Amendment) Act, 1931 (21 of 1931).

² Original clause (cc) was re-lettered (ccc) by s. 2 of the Indian Mines (Amendment) Act, 1935 (5 of 1935)

³ These words were substituted for the words "Local Government" by paragraph 3 and Sch. I of the Government of India (Adaptation of Indian Laws) Order, 1937.

amending the same or under any Act of any Legislature in ¹[the Provinces] providing for the maintenance of a register of medical practitioners, and includes, in any area where no such last-mentioned Act is in force, any person declared by the ²[Central Government] by notification in the ³[*official Gazette*], to be a qualified medical practitioner for the purposes of this Act ;

(j) "regulations", "rules" and "bye-laws" mean respectively regulations, rules and bye-laws made under this Act .

⁴[(j)] where work of the same kind is carried out by two or more sets of workers working during different periods of the day each of such sets is called a 'relay';]

(k) "serious bodily injury" means any injury which involves or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb or the enforced absence of the injured person from work for a period exceeding twenty days ; and

(l) "week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

CHAPTER II.

INSPECTORS.

4. Chief Inspector and Inspectors.—(1) ⁵[Central Government] may, by notification in the ⁶[*official Gazette*], appoint a duly qualified person to be Chief Inspector of Mines for ⁷[all the Provinces of India], and duly qualified persons to the Inspectors of Mines subordinate to the Chief Inspector.

¹ These words were substituted for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

² These words were substituted for the words "Local Government" by para 3 and Sch. I of the Government of India (Adaptation of Indian Laws) Order, 1937

³ These words were substituted for the words "local official Gazette" by para. 4, *ibid.*

⁴ This clause was inserted by s. 2 of the Indian Mines (Amendment) Act, 1935 (5 of 1935).

⁵ These words were substituted for the words "Governor General in Council" by para 4 of the Government of India (Adaptation of Indian Laws) Order, 1937

⁶ These words were substituted for the words "Gazette of India", *ibid.*

⁷ These words were substituted for the words "the whole of British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

(2) No person shall be appointed to be Chief Inspector or an Inspector, or having been appointed shall continue to hold such office who is or becomes directly or indirectly interested in any mine or mining rights in India.

(3) The District Magistrate may exercise the powers and perform the duties of an Inspector subject to the general or special orders of the ¹[Central Government]

Provided that nothing in this sub-section shall be deemed to empower a District Magistrate to exercise any of the powers conferred by section 19 or section 32

(4) The Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860).

5. Functions of Inspectors.—(1) The Chief Inspector may, by order in writing, prohibit or restrict the exercise by any Inspector named, or any class of Inspectors specified, in the order of any power conferred on Inspectors by this Act, and shall, subject as aforesaid, declare the local area or areas within which, or the group or class of mines with respect to which Inspectors shall exercise their respective powers.

(2) The Inspector shall give information to owners, agents and managers of mines, situate within the local area or areas or belonging to the group or class of mines, in respect of which he exercises powers under sub-section (1) as to all regulations and rules which concern them respectively and as to the places where copies of such regulations and rules may be obtained.

6. Powers of Inspectors of Mines.—The Chief Inspector and any Inspector may—

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder are observed in the case of any mine :

(b) with such assistants (if any) as he thinks fit, enter, inspect and examine any mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine :

² These words were substituted for the words "Local Government" by para. 3 and schedule I of the Government of India (Adaptation of Indian Laws) Order, 1937.

- (c) examine into, and make inquiry respecting, the state and condition of any mine or any part thereof, the ventilation of the mine, the sufficiency of the bye-laws for the time being in force relating to the mine, and all matters and things connected with or relating to the safety of the persons employed in the mine.

7. Powers of special officer to enter, measure, etc.—Any person in the service of the ¹[Crown] duly authorised by a special order in writing of the Chief Inspector or of an Inspector in this behalf may, for the purpose of surveying, levelling or measuring in any mine, after giving not less than three days' notice to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine

8. Facilities to be afforded to Inspectors.—Every owner, agent and manager of a mine shall afford the Chief Inspector and every Inspector and every person authorised under section 7 all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Act

9. Secrecy of Information obtained.—(1) All copies of, and extracts from, registers or other records appertaining to any mine, and all other information acquired by the Chief Inspector or an Inspector or by any one assisting him, in the course of the inspection of any mine under this Act or acquired by any person authorised under section 7 in the exercise of his duties thereunder, shall be regarded as confidential ²[and shall not be disclosed to any person other than a Magistrate or an official superior or the owner, agent or manager of the mine concerned, unless the Chief Inspector or the Inspector considers disclosure necessary to ensure the safety of any persons] ;

(2) If the Chief Inspector, or an Inspector or any other person referred to in sub-section (1) discloses ³[contrary to the provisions of sub-section (1)], any such information as aforesaid without the consent of ⁴[the Central Government], he shall be guilty of a breach of

¹ This word was substituted for the word "Government", *ibid*

² These words were added by s. 3 of the Indian Mines (Amendment) Act, 1937 (29 of 1937).

³ These words were substituted for the words "to any one, other than a Magistrate or an officer to whom he is subordinate", *ibid*.

⁴ These words were substituted for the words "the Governor General in Council or of the Local Government" by para 3 and Sch I of the Government of India (Adaptation of Indian Laws) Order, 1937

official trust (XV of 1889), and shall be punishable ¹[with imprisonment for a term which may extend to one year, or with fine, or with both].

(3) No Court shall proceed to the trial of any offence under this section ²[except with the previous sanction of the Central Government].

CHAPTER III

MINING BOARDS AND COMMITTEES

10. Mining Boards.—(1) The ³[Central Government] may constitute ⁴[for any part of the Provinces], or for any group or class of mines⁵ ⁶, a Mining Board consisting of—

- (a) a person in the service of the Government, not being the Chief Inspector or an Inspector, nominated by the ³[Central Government] to act as Chairman,
- (b) the Chief Inspector or an Inspector;
- ⁶[(c) a person, not being the Chief Inspector or an Inspector, nominated by the ³[Central Government],
- (d) two persons nominated by owners of mines or their representatives in such manner as may be prescribed;
- ⁷[(e) two persons to represent the interest of miners, who shall be nominated in accordance with the following provisions:—
- (i) if there are one or more registered trade unions having in the aggregate as members not less than one quarter of the miners, the said persons

¹ These words were substituted for the words “in the manner provided by section 4 of the Indian Official Secrets Act, 1889” by s. 2 and Sch I of the Repealing and Amending Act, 1925 (37 of 1925).

² These words were substituted for the words “except on complaint made by order of or under authority from, the Central Government, or made by a person aggrieved by the offence” by s. 3 of the Indian Mines (Amendment) Act, 1937 (29 of 1937).

³ These words were substituted for the words “Local Government” by para. 3 and Sch I of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴ These words were substituted for the words “for the province, or for any part of the province”, *ibid.* The word “British India” was substituted.

⁵ The words “in the province” were omitted, *ibid.*

⁶ This clause was substituted by s. 3 of the Indian Mines (Amendment) Act, 1935 (5 of 1935).

⁷ This clause was added by s. 3 of the Indian Mines (Amendment) Act, 1935 (5 of 1935).

shall be nominated by such trade union or trade unions in such manner as may be prescribed ;

(ii) if sub-clause (i) is not applicable and there are one or more registered trade unions having in the aggregate as members not less than 1,000 miners, one of the said persons shall be nominated by such trade union or trade unions in such manner as may be prescribed and the other by the ¹[Central Government] ;

(iii) if neither sub-clause (i) nor sub-clause (ii) is applicable, the said persons shall be nominated by the ¹[Central Government].

Explanation—In this clause ‘miner’ means a person employed, otherwise than in a position of supervision or management, in any of the mines for which the Mining Board is constituted

(2) The Chairman shall appoint a person to act as Secretary to the Board.

(3) The ¹[Central Government] may give directions as to the payment of travelling expenses incurred by the secretary or any member of any such Mining Board in the performance of his duty as such secretary or member.

11. Committees.—(1) Where under this Act any question relating to a mine is referred to a Committee, the Committee shall consist of—

(a) a Chairman nominated by the ¹[Central Government] or by such officer or authority as the ¹[Central Government] may authorise in this behalf ;

(b) a person nominated by the chairman and qualified by experience to dispose of the question referred to the Committee ; and

(c) two persons of whom one shall be nominated by the owner, agent or manager of the mine concerned, and the other shall be nominated by the ¹[Central Government] to represent the interests of the persons employed in the mine.

¹ These words were substituted for the words “Local Government” by para 3 and Sch. I of the Government of India (Adaptation of Indian Laws) Order, 1937.

(2) No Inspector or person employed in or in the management of any mine concerned shall serve as chairman or member of a Committee appointed under this section.

(3) Where an owner, agent or manager fails to exercise his power of nomination under clause (c) of sub-section (1), the Committee may, notwithstanding such failure, proceed to inquire into and dispose of the matter referred to it

(4) The Committee shall hear and record such information as the Chief Inspector or the Inspector, or the owner, agent or manager of the mine concerned, may place before it, and shall intimate its decision to the Chief Inspector or the Inspector and to the owner, agent or manager of the mine, and shall report its decision to the ¹[Central Government].

(5) On receiving such report the ¹[Central Government] shall pass orders in conformity therewith unless the Chief Inspector or the owner, agent or manager of the mine has lodged an objection to the decision of the Committee, in which case the ¹[Central Government] may proceed to review such decision and to pass such orders in the matter as it may think fit. If an objection is lodged by the Chief Inspector notice of the same shall forthwith be given to the owner, agent or manager of the mine.

(6) The ¹[Central Government] may give directions as to the remuneration, if any, to be paid to the members of the Committee or any of them, and as to the payment of expenses of the inquiry including such remuneration.

12. Powers of Mining Boards.—(1) Any Mining Board constituted under section 10 and any Committee constituted under section 11 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purpose of deciding or reporting upon any matter referred to it.

(2) Every Mining Board constituted under section 10 and every Committee appointed under section 11 shall have the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by any such Mining Board or Committee to furnish informa-

¹ These words were substituted for the words "Local Government" by para 3 and Sch I of the Government of India (Adaptation of Indian Laws) Order, 1937.

tion before it shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code (XLV of 1860).

13. Recovery of expenses.—The ¹[Central Government] may direct that the expenses of any inquiry conducted by a Mining Board constituted under section 10 or by a Committee appointed under section 11 shall be borne in whole or in part by the owner or agent of the mine concerned, and the amount so directed to be paid may, on application by the Chief Inspector or an Inspector to a Magistrate having jurisdiction at the place where the mine is situated or where such owner or agent is for the time being resident, be recovered by the distress and sale of any movable property within the limits of the Magistrate's jurisdiction belonging to such ²[owner or agent].

CHAPTER IV

MINING OPERATIONS AND MANAGEMENT OF MINES

14. Notice to be given of mining operations.—The owner, agent or manager of a mine shall, in the case of an existing mine within one month from the commencement of this Act, or, in the case of a new mine, within three months after the commencement of mining operations, give to the District Magistrate of the district in which the mine is situated notice in writing in such form and containing such particulars relating to the mine as may be prescribed.

15. Managers.—(1) Save as may be otherwise prescribed, every mine shall be under one manager who shall have the prescribed qualifications and shall be responsible for the control, management and direction of the mine, and the owner or agent of every mine shall appoint himself or some other person, having such qualifications, to be such manager.

(2) If any mine is worked without there being a manager for the mine as required by sub-section (1), the owner and agent shall each be deemed to have contravened the provisions of this section.

16. Duties and responsibilities of owners, agents and managers.—(1) The owner, agent and manager of every mine shall be responsible that all operations carried on in connection therewith

¹ These words were substituted for the words "Local Government" by para 3 and schedule I of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "owner, agent or manager" by s 2 and Sch I of the Repealing and Amending Act, 1925 (37 of 1925)

are conducted in accordance with the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder.

(2) In the event of any contravention of any such provisions by any person whomsoever, the owner, agent and manager of the mine shall each be deemed also to be guilty of such contravention unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing those provisions, to prevent such contravention.

Provided that the owner or agent shall not be so deemed if he proves—

- (a) that he was not in the habit of taking, and did not in respect of the matter in question take, any part in the management of the mine; and
- (b) that he had made all the financial and other provisions necessary to enable the manager to carry out his duties; and
- (c) that the offence was committed without his knowledge, consent or connivance.

(3) Save as hereinbefore provided, it shall not be a defence in any proceedings brought against an owner or agent of a mine under this section that a manager of the mine has been appointed in accordance with the provisions of this Act.

CHAPTER V.

PROVISIONS AS TO HEALTH AND SAFETY

17. Conservancy.—There shall be provided and maintained for every mine latrine and urinal accommodation of such kind and on such scale, and such supply of water fit for drinking, as may be prescribed.

18. Medical appliances.—At every mine in respect of which the ¹[Central Government] may, by notification in the ²[*Official Gazette*], declare this section to apply such supply of ambulances or stretchers and of splints, bandages and other medical requirements, as may be prescribed, shall be kept ready at hand in a convenient place and in good and serviceable order.

¹ These words were substituted for the words "Local Government" by para. 3 and Sch I of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "local official Gazette" by paragraph 4, *ibid*.

19. Powers of Inspectors when causes of danger not expressly provided against exist or when employment of persons is dangerous.—(1) If, in any respect which is not provided against

by any express provision of this Act or of the regulations, rules or bye-laws or of any orders made thereunder, it appears to the Chief Inspector or the Inspector that any mine, or any part thereof or any matter, thing or practice in or connected with the mine, or with the control, management or direction thereof, is dangerous to human life or safety, or defective so as to threaten, or tend to, the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the mine and shall state in the notice the particulars in which he considers the mine, or part thereof, or the matter, thing or practice, to be dangerous or defective and require the same to be remedied within such time as he may specify in the notice.

¹[(1A) Without prejudice to the generality of the provisions contained in sub-section (1), the Chief Inspector or the Inspector may, in any area to which the ²[Central Government] may by notification in the ³[*Official Gazette*] declare that this sub-section applies, by order in writing addressed to the owner, agent or manager of a mine,—

- (a) prohibit the extraction or reduction of pillars in any part of the mine if, in his opinion, such operation is likely to cause the crushing of pillars or the premature collapse of any part of the workings or otherwise endanger the mine, or if, in his opinion, adequate provision against the outbreak of fire has not been made by providing for the sealing off and isolation of the part of the mine in which such operation is contemplated and for restricting the area that might be affected by a fire ; or
- (b) limit to such dimensions as he considers reasonable the the galleries that may be driven in the mine ;

¹ This sub-section was inserted by s 2 of the Indian Mines (Amendment) Act, 1936 (11 of 1936) as amended by s. 2 of the Indian Mines (Amendment) Act, 1937 (29 of 1937).

² These words were substituted for the words "Governor General in Council" by para 4 of the Government of India (Adaptation of Indian Laws) Order, 1937.

³ These words were substituted for the words "Gazette of India", *ibid.*

and the provisions of sub-sections (3), (4), (5) and (6) shall apply to an order made under this sub-section as they apply to an order made under sub-section (2)].

(2) If the Chief Inspector or an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector is of opinion that there is urgent and immediate danger to the life or safety of any person employed in any mine or part thereof, he may, by an order in writing containing a statement of the grounds of his opinion, prohibit, until the danger is removed, the employment in or about the mine or part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(3) Where an order has been made under sub-section (2) by an Inspector, the owner, agent or manager of the mine may, within ten days after the receipt of the order, appeal against the same to the Chief Inspector who may confirm, modify or cancel the order.

(4) The Chief Inspector or the Inspector making a requisition under sub-section (1) or an order under sub-section (2), and the Chief Inspector making an order (other than an order of cancellation) in appeal under sub-section (3), shall forthwith report the same to the ¹[Central Government] and shall inform the owner, agent or manager of the mine that such report has been so made.

(5) If the owner, agent or manager of the mine objects to a requisition made under sub-section (1) or to an order made by the Chief Inspector under sub-section (2), or sub-section (3), he may, within twenty days after the receipt of the notice containing the requisition or of the order or after the date of the decision of the appeal, as the case may be, send his objection in writing, stating the grounds thereof, to the ¹[Central Government], which shall refer the same to a Committee

(6) Every requisition made under sub-section (1), or order made under sub-section (2), or sub-section (3) to which objection is made under sub-section (5), shall be complied with pending the receipt at the mine of the decision of the Committee :

Provided that the Committee may, on the application of the owner, agent or manager, suspend the operation of a requisition under sub-section (1) pending its decision on the objection.

¹ These words were substituted for the words "Local Government" by para. 3 and schedule I of the Government of India (Adaptation of Indian Laws) Order, 1937.

(7) Nothing in this section shall affect the powers of a Magistrate under section 144 of the Code of Criminal Procedure, 1898 (V of 1898)

20. Notice to be given of accidents.—¹[(1)] When any accident occurs in or about a mine causing loss of life or serious bodily injury, or when an accidental explosion, ignition, outbreak of fire or irruption of water occurs in or about a mine, the owner, agent or manager of the mine shall give such notice of the occurrence to such authorities, and in such form, and within such time, as may be prescribed.

²[(2) The ³[Central Government] may, by notification in the ⁴[*Official Gazette*] direct that accidents other than those specified in sub-section (1) which cause bodily injury resulting in the enforced absence from work of the person injured for a period exceeding forty-eight hours shall be entered in a register in the prescribed form or shall be subject to the provisions of sub-section (1)]

(3) A copy of the entries in the register referred to in sub-section (2) shall be sent by the owner, agent, or manager of the mine, within fourteen days after the 30th day of June and the 31st day of December in each year, to the Chief Inspector.]

21. Power of Government to appoint court of inquiry in cases of accidents. -(1) When any accidental explosion, ignition, outbreak of fire or irruption of water or other accident has occurred in or about any mine, the ³[Central Government] if it is of opinion that a formal inquiry into the causes of, and circumstances attending, the accident ought to be held, may appoint a competent person to hold such inquiry, and may also appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the inquiry.

(2) The person appointed to hold any such inquiry shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material

¹ Original section 20 was re-numbered sub-section (1) by s 4 of the Indian Mines (Amendment) Act, 1935 (5 of 1935).

² Sub-sections (2) and (3) were added, *ibid*

³ These words were substituted for the words "Local Government" by para 3 and Sch. I of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴ These words were substituted for the words "local official Gazette" by para. 4 and Sch. I of the Government of India (Adaptation of Indian Laws) Order, 1937.

objects ; and every person required by such person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code (XLV of 1860)

(3) Any person holding an inquiry under this section may exercise such of the powers of an Inspector under this Act as he may think it necessary or expedient to exercise for the purposes of the inquiry.

(4) The person holding an inquiry under this section shall make a report to the ¹[Central Government] stating the causes of the accident and its circumstances, and adding any observations which he or any of the assessors may think fit to make

22. Publication of reports.—The ¹[Central Government] may cause any report submitted by a Committee under section 11 ²[and shall cause every report submitted] by a court of inquiry under section 21 to be published at such time and in such manner as it may think fit.

CHAPTER VI

HOURS AND LIMITATION OF EMPLOYMENT.

³[**22A. Weekly day of rest.**—No person shall be allowed to work in a mine on more than six days in any one week.

22B. Hours of work above ground.—(1) A person employed above ground in a mine shall not be allowed to work for more than fifty-four hours in any week or for more than ten hours in any day.

(2) The periods of work of any such person shall be so arranged that, along with his intervals for rest, they shall not in any day spread over more than twelve hours, and that he shall not work for more than six hours before he has had an interval for rest of at least one hour.

(3) Persons belonging to two or more relays shall not be allowed to do work of the same kind above ground at the same moment :

¹ These words were substituted for the words "Local Government" by para. 3 and Sch. I of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the word "or", by s. 5 of the Indian Mines (Amendment) Act, 1935 (5 of 1935).

³ Section 22A to 22D were inserted by s. 6, *ibid.*

Provided that for the purposes of this sub-section persons shall not be deemed to belong to separate relays by reason only of the fact that they receive their intervals for rest at different times.

22C. Hours of work below ground—(1) A person employed below ground in a mine shall not be allowed to work for more than nine hours in any day

(2) Work of the same kind shall not be carried on below ground in any mine for a period spreading over more than nine hours in any day except by a system of relays so arranged that the periods of work for each relay are not spread over more than nine hours.

(3) No person employed in a mine shall be allowed to be in any part of the mine below ground except during the periods of work shown in respect of him in the register kept under sub-section (1) of section 28.

22D. Special provision for night relays.—Where a worker works in a relay whose period of work extends over midnight, the ensuing day for him shall be deemed to be the period of twenty-four hours beginning at the end of the period of work fixed for the relay, and the hours he has worked after midnight shall be counted towards the previous day]

23. Prohibition of employment of certain persons.—¹[No person shall be allowed to work in a mine who has already been working in any other mine within the preceding twelve hours.]

23A. Limitation of working hours. [*Repealed by s 8 of the Indian Mines (Amendment) Act, 1935 (5 of 1935)*].

23B. Notices regarding hours of works.—²[(1) The manager of every mine shall cause to be posted outside the office of the mine a notice in the prescribed form stating the time of the commencement and of the end of work at the mine and, if it is proposed to work by a system of ³[relays], the time of the commencement and of the end of work for each ⁴[relay]. ⁵[The notice shall also state the time of the commencement and of the end of the intervals for

¹ This section was substituted by s 7 of the Indian Mines (Amendment) Act, 1935 (5 of 1935)

² This section was inserted by s 3 of the Indian Mines (Amendment) Act, 1928 (13 of 1928)

³ This word was substituted for the word "shifts" by s 9 of the Indian Mines (Amendment) Act, 1935 (5 of 1935).

⁴ This word was substituted for the word "shift", *ibid*.

⁵ This sentence was inserted, *ibid*.

rest fixed for persons employed above ground.] A copy of each such notice shall be sent to the Chief Inspector, if he so requires.

(2) In the case of a mine at which mining operations commence after the 14th day of April, 1930, the notice referred to in sub-section (1) shall be posted not less than seven days before the commencement of work.

(3) Where it is proposed to make any alteration in the time fixed for the commencement or for the end of work in the mine generally or for any ¹[relay or in the rest intervals fixed for persons employed above ground] an amended notice in the prescribed form shall be posted outside the office of the mine not less than seven days before the change is made, and a copy of such notice shall be sent to the Chief Inspector not less than seven days before such change ²* * * *].

³[(4) No person shall be allowed to work in a mine otherwise than in accordance with the notice required by sub-section (1)].

24. Supervising staff.—Nothing in ¹[section 22A, section 22B, section 22C, section 23, or sub-section (4) of section 23B] shall apply to person who may by rules be defined to be persons holding positions of supervision or management or employed in a confidential capacity.

25. Exemption from provisions regarding employment.—In case of an emergency involving serious risk to the safety of the mine or of persons employed therein, the manager may, subject to the provisions of section 19, permit persons to be employed in contravention of ⁴[section 22A, section 22B, section 22C, section 23, or sub-section (4) of section 23B] on such work as may be necessary to protect the safety of the mine or of the persons employed therein:

Provided that, where such occasion arises, a record of the fact shall immediately be made by the manager and shall be placed before the Chief Inspector or the Inspector at his next inspection of the mine.

26. Children.—No child shall be employed in a mine, or be allowed to be present in any part of a mine which is below ground.

¹ These words were substituted for the word "shift", *ibid.*

² These words, "if he so requires or if the original notice was sent to him" were omitted by s. 9 of the Indian Mines (Amendment) Act, 1935 (5 of 1935).

³ This sub-section was inserted, *ibid.*

⁴ These words, figures and letters were substituted for the words, figures and letters 'Section 23 or Section 23A' by sections 10 and 11 respectively, *ibid.*

26A. Young persons not to be allowed underground without certificates of fitness—¹[No person who has not completed his seventeenth year shall be allowed to be present in any part of a mine which is below ground, unless—

- (a) a certificate of fitness in the prescribed form and granted to him by a qualified medical practitioner is in the custody of the manager of the mine, and
- (b) he carries while at work a token giving a reference to such certificate.]

27. Disputes as to age.—²(1) If any question arises between the Chief Inspector or the Inspector and the manager of any mine as to whether any person is a child ²[or has not completed his seventeenth year] the question shall, in the absence of a certificate as to the age of such person granted in the prescribed manner, be referred by the Chief Inspector or the Inspector for decision to a qualified medical practitioner.

(2) Every certificate as to the age of a person which has been granted in the prescribed manner and any certificate granted by a qualified medical practitioner on a reference under sub-section (1) shall for the purposes of this Act, be conclusive evidence as to the age of the person to whom it relates.

28. Register of employees.—³(1) For every mine there shall be kept in the prescribed form and place a register of all persons employed in the mine showing, in respect of each such person,—

- (a) the nature of his employment,
- (b) the periods of work fixed for him,
- (c) the intervals for rest, if any, to which he is entitled,
- (d) the days of rest to which he is entitled, and
- (e) where work is carried on by a system of relays the relay to which he belongs.

(2) The entries in the register prescribed by sub-section (1) shall be such that workers working in accordance therewith would not be working in contravention of any of the provisions of this Chapter.

(3) No person shall be employed in a mine until the particulars required by sub-section (1) have been recorded in the register in

¹ This section was inserted by s 12, *ibid.*

² These words were inserted by s 13 of the Indian Mines (Amendment) Act, 1935 (5 of 1935).

³ This section was substituted by s. 14, *ibid.*

respect of such person and no person shall be employed except during the periods of work shown in respect of him in the register.

(4) For every mine to which the ¹[Central Government] may by general or special order, declare this sub-section to be applicable, there shall be kept in the prescribed form and place a register which shall show at any moment the name of every person then working below ground in the mine]

CHAPTER VII.

REGULATIONS, RULES AND BYE-LAWS.

29. Power of Central Government to make regulations.—

The ³[Central Government] may, by notification in the ²[*Official Gazette*], make regulations consistent with this Act for all or any of the following purposes, namely :—

- (a) for prescribing the qualifications to be required by a person for appointment as Chief Inspector or Inspector ,
- (b) for prescribing and regulating the duties and powers of the Chief Inspector and of Inspectors in regard to the inspection of mines under this Act
- (c) for prescribing the duties of owners, agents and managers of mines and of persons acting under them ;
- (d) for prescribing the qualifications of managers of mines and of persons acting under them ;
- (e) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency ;
- (f) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates ;
- (g) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for

¹ These words were substituted for the words "Local Government" by para 3 and Sch I of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Governor General in Council" by para 4, *ibid*.

³ These words were substituted for the words "Gazette of India", *ibid*.

- any mine or mines to be under a manager not having the prescribed qualifications ,
- (h) for providing for the making of inquiries into charges of misconduct or incompetency on the part of managers of mines and persons acting under them and for the suspension and cancellation of certificates of competency ;
 - (i) for regulating, subject to the provisions of the Indian Explosives Act, 1884 (IV of 1884), and of any rules made thereunder, the storage and use of explosives ;
 - (j) for prohibiting, restricting or regulating the employment in mines or in any class of mines of women either below ground or on particular kinds of labour which are attended by danger to the life, safety or health of such women ;
 - (k) for providing for the safety of the persons employed in a mine, their means of entrance therinto and exit therefrom, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences ;
 - (l) for providing for the safety of the roads and working places in mines, including the siting and maintenance of pillars and the maintenance of sufficient barriers between mine and mine ;
 - (m) for providing for ¹[and regulating] the ventilation of mines and the action to be taken to respect of dust and noxious gases ;
 - (n) for providing for the care, and the regulation of the use, of all machinery and plant and of all electrical apparatus used for signalling purposes ;
 - (o) for requiring and regulating the use of safety lamps in mines ;
 - ²[(p) for providing against explosions or ignitions or irruptions of or accumulations of water in mines and against danger arising therefrom, and for prohibiting, restricting or regulating the extraction of minerals in circumstances likely to result in or to aggravate irruptions of water or ignitions in mines ;]

¹ These words were inserted by s 3 of the Indian Mines (Amendment) Act, 1936 (11 of 1936).

² This clause was substituted, *ibid.*

- (q) for prescribing the notices of accidents and dangerous occurrences, and the notices, reports and returns of mineral output, persons employed and other matters provided for by regulations, to be furnished by owners, agents and managers of mines and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the time within which they are to be submitted ;
- (r) for prescribing the plans to be kept by owners, agents and managers of mines and the manner and places in which such plans are to be kept for purposes of record ,
- (s) for regulating the procedure on the occurrence of accidents or accidental explosions or ignition in or about mines ;
- (t) for prescribing the form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 14 ; and
- (u) for prescribing the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within fifty yards of any railway subject to the provisions of the Indian Railways Act, 1890 (IX of 1890) or of any public work or classes of public works which the ¹[Central Government] may, be general of special order, specify in this behalf

30. Power of Central Government to make rules—The ¹[Central Government] may, ²* * * * by notification in the ³[official Gazette] makes rules consistent with this Act for all or any of the following purposes, namely :—

- (a) for providing for the appointment of chairmen and members of Mining Boards, and for regulating the procedure of such Boards ;

¹ These words were substituted for the words "Local Government" by para. 3 and Sch I of the Government of India (Adaptation of Indian Laws) Order, 1937

² The words "subject to the control of the Governor General in Council" were omitted, *ibid.*

³ These words were substituted for the words "local official Gazette" by paragraph 4, *ibid.*

¹[(aa) for prescribing the form of the register referred to in sub-section (2) of section 20,]

(b) for providing for the appointment of courts of inquiry under section 21, for regulating the procedure and powers of such courts, for the payment of travelling allowance to the members, and for the recovery of the expenses of such courts from the manager, owner or agent of the mine concerned ;

²[(bb) for requiring the maintenance in mines wherein any women are ordinarily employed of suitable rooms to be reserved for the use of children under the age of six years belonging to such women, and for prescribing, either generally or with particular reference to the number of women ordinarily employed in the mine, the number and standards of such rooms, and the nature and extent of the supervision to be provided therein,]

³[(bbb) for requiring the maintenance at or near pit-heads of bathing places equipped with shower baths and of locker-rooms for the use of men employed in mines and of similar and separate places and rooms for the use of women in mines where women are employed, and for prescribing, either generally or with particular reference to the numbers of men and women ordinarily employed in a mine, the number and standards of such places and rooms ;]

(c) for prescribing the scale of latrine and urinal accommodation to be provided at mines, the provision to be made for the supply of drinking-water, the supply and maintenance of medical appliances and comforts, ⁴* * *, and the training of men in ambulance work ;

⁵[(cc) for prescribing the forms of notices required under section 23B, and for requiring such notices to be posted also in specified vernaculars ;]

(d) for refining the persons who shall, for the purpose of section 24, be deemed to be persons holding positions of supervision or management or employed in a confidential capacity ;

¹ This clause was inserted by s 15 of the Indian Mines (Amendment) Act, 1935 (5 of 1935)

² This clause was inserted by section 2 of the Mines (Amendment) Ordinance (Ordinance XVII of 1945).

³ This clause was inserted by section 2 of the Indian Mines (Amendment) Act, 1946 (II of 1946).

⁴ The words "the formation and training of rescue brigades" were omitted by s. 4 of the Indian Mines (Amendment) Act, 1936 (11 of 1936)

⁵ This clause was inserted by s. 6 of the Indian Mines (Amendment) Act, 1928 (13 of 1928).

(e) for prohibiting the employment in mines of persons or any class of persons who have not been certified by a qualified medical practitioner ¹[to have completed their fifteenth year], and for prescribing the manner and the circumstances in which such certificates may be granted and revoked ;

²[(ee) for prescribing the form of the certificates of fitness required by section 26A and the circumstances in which such certificates may be granted and revoked ;]

(f) for prescribing the form of ³[registers] required by section 28 ;

(g) for prescribing abstracts of this Act ⁴[and of the regulations and rules] and the vernacular in which the abstracts and ⁵“ ” “ by-laws shall be posted as required by sections 32 and 33 .

(h) for requiring the fencing of any mine or part of a mine whether the same is being worked or not, where such fencing is necessary for the protection of the public ;

(i) for the protection from injury, in respect of any mine when the workings are discontinued, or property vested in His Majesty or any local authority or railway company as defined in the Indian Railways Act, 1890 (IX of 1890) ;

(j) for requiring notices, returns and reports in connection with any matters dealt with by rules to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the times within which they are to be submitted ; and

(k) generally to provide for any matter not provided for by this Act or the regulations, provision for which is required in order to give effect to this Act.

30A. Power of the Central Government to require rescue stations to be established.—⁶[The ⁷[Central Government] may, by

¹ These words were substituted for the words “to be more than thirteen years of age” by s 15 of the Indian Mines (Amendment) Act, 1935 (5 of 1935)

² This clause was inserted, *ibid.*

³ This word was substituted for the word “register” by s 15 of the Indian Mines (Amendment) Act, 1935 (5 of 1935)

⁴ These words were inserted by s 2 and Sch. I of the Repealing and Amending Act, 1925 (37 of 1925)

⁵ The words “the regulations, rules and” were omitted, *ibid.*

⁶ This section was inserted by s. 5 of the Indian Mines (Amendment) Act, 1936 (11 of 1936).

⁷ These words were substituted for the words “Governor General in Council” by para. 4 of the Government of India (Adaptation of Indian Laws) Order, 1937.

notification in the ¹[official Gazette] make ²[rules] under this section—

³[(a) requiring the establishment of central rescue stations for groups of specified mines or for all mines in a specified area, and prescribing how and by whom such stations shall be established ,

(b) providing for the management of central rescue stations, and regulating the constitution, powers and functions of, and the conduct of business by, the authorities (which shall include representatives of the owners and managers of, and of the miners employed in, the mines or groups of mines concerned) charged with such management ,

(c) prescribing the position, equipment, control, maintenance and functions of central rescue stations ;

(d) providing for the levy and collection of a duty of excise (at a rate not exceeding six pies per ton) on coke and coal produced in and despatched from mines specified under clause (a) in any group or included under clause (a) in any specified areas, the utilisation of the proceeds thereof for the creation of a central rescue station fund for such group or area and the administration of such funds ,

(e) providing for the formation, training, composition and duties of rescue brigades ; and

(f) providing generally for the conduct of rescue work in mines]

31. Prior publication of regulations and rules.—(1) The power to make regulations and rules conferred by section 29 ⁴[30 and 30A] is subject to the condition of the regulations and rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), as that after which a draft of regulations or rules proposed to be made will be taken under consideration, shall not be less than three months from the date on which the draft of the proposed regulations or rules is published for general information.

(3) Before the draft of any regulation ⁵* * * is published under

¹ These words were substituted for the words "Gazette of India", *ibid*

² This word was substituted for the word "regulations" by s 4 of the Indian Mines (Amendment) Act, 1937 (29 of 1937).

³ These clauses were substituted for the original clauses (a), (b), (c) and (d), *ibid*

⁴ These figures, letter and word were substituted for the word and figure "and 30" by s. 5 of the Indian Mines (Amendment) Act, 1937 (29 of 1937)

⁵ The words "or rule" were omitted by s 7 of the Indian Mines (Amendment) Act, 1928 (13 of 1928).

this section it shall be referred ¹ " " to every Mining Board constituted in ²[the Provinces] ³[which is, in the opinion of the ⁴[Central Government]], concerned with the subject dealt with by the regulation] ⁵ " " and the regulation ⁶ " " shall not be so published until each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.

⁷[(3A) No rule shall be made unless the draft thereof has been referred to every Mining Board constituted ⁸[in the part of ²[the Provinces] affected by the rule], and unless each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions]

(4) Regulations and rules shall be published in the ⁹[official Gazette] ¹⁰ " " and, on such publication shall have effect as if enacted in this Act.

¹¹[(5) The provisions of sub-sections (1), (2) and (3A) shall not apply to the first occasion on which rules referred to in clause (bb) ¹²[or clause (bbb)] of section 30 are made].

31A. Power to make regulations without previous publication.—¹³[Notwithstanding anything contained in sub-sections (1), (2) and (3) of section 31, regulations under clause (i) and clauses (k) to

¹ The words "in the case of a regulation" were omitted, *ibid.*

² These words were substituted for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances), Order, 1948

³ These words were inserted by s. 16 of the Indian Mines (Amendment) Act, 1935 (5 of 1935).

⁴ These words were substituted for the words "Governor General in Council" by para. 4 of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵ The words "and in the case of a rule to every Mining Board constituted in the province" were omitted by s. 7 of the Indian Mines (Amendment) Act, 1928 (13 of 1928)

⁶ The words "or rule" were omitted, *ibid.*

⁷ The sub-section was inserted, *ibid.*

⁸ These words were substituted for the words "in the province for which it is proposed to make the rule" by para. 3 and Sch. I of the Government of India (Adaptation of Indian Laws) Order, 1937

⁹ These words were substituted for the words "Gazette of India" by para. 4, *ibid.*

¹⁰ The words "and the local official Gazette, respectively" were omitted by para. 3 and Sch. I, *ibid.*

¹¹ This sub-section was added by section 3 of the Mines (Amendment) Ordinance (Ordinance XVII of 1945).

¹² The words "or clause (b b b)" was added by section 3 of the Indian Mines (Amendment) Act 1946 (II of 1946)

¹³ This section was inserted by s. 6 of the Indian Mines (Amendment) Act, 1936 (II of 1936)

(s) inclusive of section 29 may be made without previous publication and without previous reference to Mining Boards, if the ¹[Central Government] is satisfied that for the prevention of apprehended danger or the speedy remedy of conditions likely to cause danger it is necessary in making such regulations to dispense with the delay that would result from such publication and reference

Provided that any regulations so made shall not remain in force for more than two years from the making thereof]

32. Bye-laws.—(1) The owner, agent or manager of a mine may, and shall, if called upon to do so by the Chief Inspector or Inspector, frame and submit to the Chief Inspector or Inspector a draft of such bye-laws, not being inconsistent with this Act or any regulations or rules for the time being in force, for the control and guidance of the persons acting in the management of, or employed in, the mine as such owner, agent or manager may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine.

(2) If any such owner, agent or manager—

(a) fails to submit within two months a draft of bye-laws after being called upon to do so by the Chief Inspector or Inspector, or

(b) submits a draft of bye-laws which is not in the opinion of the Chief Inspector or Inspector sufficient,
the Chief Inspector or Inspector may—

(i) propose a draft of such bye-laws as appear to him to be sufficient, or

(ii) propose such amendments in any draft submitted to him by the owner, agent or manager as will, in his opinion render it sufficient.

and shall send such draft bye-laws or draft amendments to the owner, agent or manager, as the case may be, for consideration.

(3) If within a period of two months from the date on which any draft bye-laws or draft amendments are sent by the Chief Inspector or Inspector to the owner, agent or manager under the provisions of sub-section (2), the Chief Inspector or Inspector and the owner, agent or manager are unable to agree as to the terms of the bye-laws to be made sub-section (1), the Chief Inspector or Inspector shall

¹ These words were substituted for the words "Governor General in Council" by para 4 of the Government of India (Adaptation of Indian Laws) Order, 1937

refer the draft bye-laws for settlement to the Mining Board or, where there is no Mining Board, to such officer or authority as the ¹[Central Government] may, by general or special order, appoint in this behalf.

(4) (a) When such draft bye-laws have been agreed to by the owner, agent or manager and the Chief Inspector or Inspector, or, when they are unable to agree, have been settled by the Mining Board or such officer or authority as aforesaid, a copy of the draft bye-laws shall be sent by the Chief Inspector to the ¹[Central Government] for approval.

(b) The ¹[Central Government] may make such modification of the draft bye-laws as it thinks fit

(c) Before the ¹[Central Government] approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the ¹[Central Government] may think best adapted for informing the persons affected, notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws, made by or on behalf of persons affected should be sent to the ¹[Central Government]

(d) Every objection shall be in writing and shall state—

(i) the specific grounds of objection, and

(ii) the omissions, additions or modifications asked for.

(e) The ¹[Central Government] shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in the form in which they were published or after making such amendments thereto as it thinks fit.

(5) The bye-laws, when so approved by the ¹[Central Government], shall have effect as if enacted in this Act, and the owner, agent or manager of the mine shall cause a copy of the bye-laws, in English and in such vernacular or vernaculars as may be prescribed, to be posted up in some conspicuous place at or near the mine, where the bye-laws may be conveniently read or seen by the persons employed; and, as often as the same become defaced, obliterated or destroyed, shall cause them to be renewed with all reasonable despatch.

¹ These words were substituted for the words "Local Government" by para. 3 and Sch I of the Government of India (Adaptation of Indian Laws) Order, 1937

(6) The ¹[Central Government] may, by order in writing rescind, in whole or in part, any bye-law so made, and thereupon such bye-law shall cease to have effect accordingly.

33. Posting up of extracts from Act, regulations, etc.—

There shall be kept posted up at or near every mine in English and in such vernacular or vernaculars as may be prescribed, the prescribed abstracts of the Act and of the regulations and rules.

CHAPTER VIII.

PENALTIES AND PROCEDURE

34. Obstruction.—(1) Whoever obstructs the Chief Inspector, an Inspector or any person authorised under section 7 in the discharge of his duties under this Act, or refuses or wilfully neglects to afford the Chief Inspector, an Inspector or such person any reasonable facility for making any entry, inspection, examination or inquiry authorised by or under this Act in relation to any mine, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever refuses to produce on the demand of the Chief Inspector or Inspector any registers or other documents kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe to be likely to prevent any person from appearing before or being examined by an inspecting officer acting in pursuance of his duties under this Act, shall be punishable with fine which may extend to three hundred rupees.

35. Falsification of records, etc.—Whoever—

(a) counterfeits, or knowingly makes a false statement in, any certificate, or any official copy of a certificate, granted under this Act, or

(b) knowingly uses as true any such counterfeit or false certificate, or

(c) makes or produces or uses any false declaration, statement or evidence knowing the same to be false, for the purpose of obtaining for himself or for any other person a certificate, or the renewal of a certificate, under this Act, or any employment in a mine, or

¹ These words were substituted for the words "Local Government" by para. 3 and Sch. I of the Government of India (Adaptation of Indian Laws) Order, 1937.

(d) falsifies any plan or register or record the maintenance of which is required by or under this Act, or

(e) makes, gives or delivers any plan, return, notice, record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

36. Omission to furnish plans, etc.—Any person who, without reasonable excuse the burden of proving which shall lie upon him, omits to make or furnish in the prescribed form or manner or at or within the prescribed time any plan, return, notice, register, record or report required by or under this Act to be made or furnished shall be punishable with fine which may extend to two hundred rupees.

37. Contravention of provisions regarding employment of labour.—Whoever, save as permitted by section 25, contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder prohibiting, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with fine which may extend to five hundred rupees.

38. Notice of accidents. ¹[(1)] Whoever, in contravention of the provisions ²[of sub-section (1)] of section 20, fails to give notice of any accidental occurrence shall, if the occurrence results in serious bodily injury be punishable with fine which may extend to five hundred rupees or, if the occurrence results in loss of life, be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees, or with both.

³[(2)] Whoever in contravention of a direction made by the ⁴[Central Government] under sub-section (2) of section 20 fails to record in the prescribed register or to give notice of any accidental occurrence shall be punishable with fine which may extend to five hundred rupees.]

39. Disobedience of orders.—Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order

¹ Original section 38 was renumbered sub-section (1) by s. 17 of the Indian Mines (Amendment) Act, 1935 (5 of 1935).

² These words, brackets and figures were inserted, *ibid.*

³ This sub-section was added, *ibid.*

⁴ These words were substituted for the words "Local Government" by para. 3 and Sch. I of the Government of India (Adaptation of Indian Laws) Order, 1937.

made thereunder for the contravention of which no penalty is hereinbefore provided shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing contravention, with a further fine which may extend to one hundred rupees for every day on which the offender is proved to have persisted in the contravention after the date of the first conviction.

40. Contravention of law with dangerous results.—(1) Notwithstanding anything hereinbefore contained, whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder, shall be punishable, if such contravention results in loss of life, with imprisonment which may extend to one year, or with fine which may extend to two thousand rupees, or with both ; or, if such contravention results in serious bodily injury, with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both ; or, if such contravention otherwise causes injury or danger to workers or other persons in or about the mine, with imprisonment which may extend to one month, or with fine which may extend to five hundred rupees or with both.

(2) Where a person having been convicted under this section is again convicted thereunder he shall be punishable with double the punishment provided by sub-section (1).

(3) Any Court imposing, or confirming in appeal, revision or otherwise, a sentence of fine passed under this section may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured, or, in the case of his death, to his legal representative :

Provided that, if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal.

41. Prosecution of owner, agent or manager.—No prosecution shall be instituted against any owner, agent or manager for any offence under this Act except at the instance of the Chief Inspector or of the District Magistrate or of an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector.

42. Limitation of prosecutions.—No Court shall take cognizance of any offence under this Act unless complaint thereof has been made within six months of the date on which the offence is alleged to have been committed.

43. Cognizance of offences.—No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act which is alleged to have been committed by any owner, agent or manager of a mine or any offence which is by this Act made punishable with imprisonment

44. Reference to Mining Board or Committee in lieu of prosecution in certain cases.—(1) If the Court trying any case instituted at the instance of the Chief Inspector or of the District Magistrate or of an Inspector under this Act is of opinion that the case is one which should, in lieu of a prosecution, be referred to a Mining Board or a Committee, it may stay the criminal proceedings, and report the matter to the ¹[Central Government] with a view to such reference being made.

(2) On receipt of a report under sub-section (1), the ¹[Central Government] may refer the case to a Mining Board or a Committee, or may direct the Court to proceed with the trial.

CHAPTER IX.

MISCELLANEOUS

45. Decision of question whether a mine is under this Act.—If any question arises as to whether any excavation or working is a mine within the meaning of this Act, the ¹[Central Government] may decide the question, and a certificate signed by a Secretary to the ¹[Central Government] shall be conclusive on the point.

46. Power to exempt from operation of Act.—(1) The ²[Central Government] may, by notification in the ³[official Gazette], exempt ⁴[either absolutely or subject to any specified conditions] any local area or any mine or group or class of mines or any part of a mine or any class of persons from the operation of all or any specified provisions of this Act :

¹ These words were substituted for the words "Local Government" by para 3 and Sch I of the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Governor General in Council" by para 4, *ibid.*

³ These words were substituted for the words "Gazette of India", *ibid.*

⁴ These words were inserted by s. 18 of the Indian Mines (Amendment) Act, 1935 (5 of 1935).

Provided that no local area or mine or group or class of mines shall be exempted from the provisions of section 26 unless it is also exempted from the operation of all the other provisions of this Act

47. Power to alter or rescind orders.—The ²[Central Government] ³ may reverse or modify any order passed under this Act

48. Application of Act to Crown mines.—That Act shall apply to mines belonging to the Crown

49. Saving.—No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act

50. [*Repeals*] *Repealed by s 2 and Sch of the Repealing Act, 1927 (12 of 1927).*

[THE SCHEDULE.]

[*Enactments Repealed.*] *Repealed by s 2 and Sch. of the Repealing Act, 1927 (12 of 1927).*

INDIAN MINES RULES, 1924

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²These words were substituted for the words "Governor General in Council" by para 4, *ibid.*

³The words "and every Local Government" were omitted by para 3 and Sch I, *ibid.*

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INDIAN MINES RULES, 1924

CHAPTER I

COURTS OF INQUIRY IN CASES OF ACCIDENTS

1. *Appointment of Court of Inquiry under section 21.*—(1) The inquiry referred to in section 21 shall be held by a District Magistrate or a Sub-Divisional Magistrate and an assessor or assessors, if necessary, appointed by Government to hold such inquiry. The expenses of the inquiry shall be recoverable from the owner of the mine or mines in which the accident took place. The expenses shall include fees and travelling allowance to be paid to the assessors and the amount of travelling allowance shall, if necessary, be certified by the District or Sub-Divisional Magistrate holding the inquiry.

(2) Every assessor appointed by Government under sub-rule (1) to hold an inquiry under section 21 shall be given a fee not exceeding Rs. 50/- per day in addition to the actual travelling expenses incurred by him.

CHAPTER II

SANITARY AND HEALTH PROVISIONS

1A. *Representation of interests before Court of Inquiry*—Court of enquiry appointed under section 22 of the Act, shall, subject to the power of such Court to disallow any question which, in its opinion, is not relevant or is otherwise not a proper question permit the following persons to attend and examine any witness, either in person or by Counsel, Solicitor, Pleader or Agent, namely —

- (i) a relative of any person whose death may have been caused by an accident with respect to which an enquiry is being held ;
- (ii) the owner, agent or manager of the mine in which the accident occurred ,
- (iii) any person appointed by an order in writing of the majority of workmen employed at the said mine, and
- (iv) any person appointed in writing by an association of workmen to which the deceased at the time of his death belonged, or by any association of employers of which the owner is a member, or by any association to which any official of or workmen employed in the said mine belongs.

2. Supply of drinking water—At every mine a sufficient supply of wholesome drinking water shall be provided on the surface and, if the Provincial Government so directs, in the case of any mine or class of mines, also below ground at points reasonably accessible to the persons employed thereon. Drinking water shall in all cases be supplied to employees free of cost.

3. Underground working and roads to be kept clean—At every mine where the Chief Inspector so directs arrangements shall be made for keeping all the underground workings and roads clean from excreta, and a sweeper or sweepers shall be appointed for the purpose.

4. Provision for latrines and urinal accommodation—(1) At every mine latrine and urinal accommodation shall be provided on the surface and, if the Provincial Government so directs in the case of any mine or class of mines, in the underground workings of the mine.

Provided that the Government may require that in lieu of latrines or urinals a certain area or areas may be marked off on the surface of the ground for use for this purpose.

(2) Every mine which has not been exempted under sub-section (1) of section 46 shall be provided with latrine accommodation on the scale given below —

	Seats
Where the number of operatives does not exceed 20	1
Where the number of operatives exceeds 20 but does not exceed 35	2
Where the number of operatives exceeds 35 but does not exceed 50	3
Where the number of operatives exceeds 50 but does not exceed 150	4
Where the number of operatives exceeds 150 but does not exceed 200	5
Where the number of operatives exceeds 200	1
seat for every 50 or fraction of 50	

If females are employed, separate latrines screened from those of males and marked in the vernacular in conspicuous letters "for women only" shall be provided. Those for males shall be similarly marked "for men only".

5. Construction of latrines.—Every latrine erected on the surface for the use of the work-people of a mine shall be so partitioned off as to secure privacy, and, if a latrine intended for the use of one sex adjoins a latrine intended for the use of the other sex, the approaches shall be separate.

6. Latrines and urinals to be kept in sanitary condition.—All latrines and urinals in or about a mine shall be kept in a sanitary

condition. Receptacles shall be cleaned daily, and tarred inside and out at least once a year

CHAPTER III

AMBULANCE AND FIRST-AID WORK

7. *Training in ambulance work.*—It shall be the duty of the owner, agent and manager of a mine to see that adequate arrangements are made for the training of men in ambulance work.

8. *Scale of persons trained in ambulance work*—In every mine in which fifty persons or more are employed during any period of 24 hours, one or more of the persons employed shall be trained in ambulance work according to the sub-joined scale to the standard of St John's First Aid Certificate —

Where the number of persons employed during any period of 24 hours—

does not exceed 100, not less than one person,
exceeds 100 but does not exceed 200, not less than two persons,
exceeds 200 but does not exceed 300, not less than three persons,
exceeds 300 but does not exceed 400, not less than four persons,
exceeds 400 but does not exceed 500, not less than five persons,
exceeds 500, one person for every completed hundred of persons employed.

9. *Medical appliances.*—In or at every mine in respect of which section 18 of the Act applies, there shall be provided and kept in good condition and ready for immediate use at a convenient place on the surface and also, if the Chief Inspector or an Inspector so directs, in the case of any mine underground:—

- (a) a suitably constructed stretcher or stretchers, and
- (b) a box or boxes containing a sufficient supply of suitable splints and bandages, adhesive plaster, boric vaseline, cotton wool and tincture of iodine or other suitable anti-septic solution

CHAPTER IV.

REGISTRATION OF WORKPEOPLE

10. *Form of register of employees.*—The register required to be kept under sub-section (1) of section 28 of the Act shall be maintained in the form of Schedule A or in such other form to the like

effect as the District Magistrate of the district, in which the mine is situate, may permit and shall be kept at the office of the mine or at such other place as the District Magistrate may direct.

10A. *Form of notice regarding hours of work*—The Notice required by section 23B (1) of the Act shall be in the form of Schedule (B) and shall be posted outside the office of the mine in English and in Vernacular of the district concerned

11. *Hours of employment. How to be reckoned*—For the purposes of section 23 (a) read with section 23 (c) of the Act, all work of persons employed below ground shall be reckoned from the time such persons leave the surface of the mine to the time at which they finally return thereto at the end of the period of employment

12. *Supervising staff*—The following persons shall be deemed to be persons holding positions of supervision or management, or employed in a confidential capacity, within the meaning of section 24 of the Act:—

- (a) any official in charge of any mine or part of a mine ;
- (b) mechanical engineers or engine-wrights or electricians ;
- (c) surveyors ; and
- (d) clerks, accountants and time-keepers.

CHAPTER V.

SAFETY PROVISIONS.

13. *Fencing of dangerous places.*—Any place in or about an excavation which is dangerous shall be made safe or shall be kept securely fenced. Should any doubt arise as to whether a place is dangerous or not, the opinion of an Inspector or of the District Magistrate shall be conclusive on the point.

14. *Fencing of dangerous places near a public road or a dwelling house.*—Where an excavation, which is more than 10 feet deep and has been formed as the result of any mining operation, extends within fifty feet of a public road or dwelling house, substantial fencing shall be erected and maintained around the excavation adjacent to the road or dwelling.

15. *When surface area to be fenced.*—Where as a result of mining operations a subsidence of the surface has taken place or is likely to take place, and persons are likely to be endangered thereby, the dangerous area shall be kept fenced on the surface.

16. Fencing of mine when working thereof is discontinued.—

In the case of any mine which is abandoned or the working of which is discontinued, the owner, agent or manager shall be bound, before the mine is finally abandoned, or immediately after the working thereof has been discontinued, to cause the top or entrance of every shaft and opening into a mine to be fenced by a structure of a permanent character sufficient to prevent persons inadvertently falling into or entering the shafts or openings.

CHAPTER VI

MISCELLANEOUS

17. Materials and appliances to be kept in stock.—Sufficient materials and appliances shall be kept in stock for the proper carrying out of all necessary operations in a manner consonant with the provisions of the Act, regulations, rules and bye-laws.

18. Prohibition of use of intoxicating drink or drug at a mine.—

No intoxicating drink or drug shall be kept or consumed in or at a mine without the consent of the manager, and no person in a state of intoxication shall enter or be allowed to remain in or about a mine.

19. Plans, books, and copies of rules, etc., to be kept and produced on demand.—All plans and books which are required to be kept under the regulations, rules and bye-laws and the prescribed abstract of the Indian Mines Act, 1923, and of the regulations, rules and bye-laws applicable to the mine shall be kept at an office or other building as near as conveniently may be to and used in connection with the working of the mine, and shall be produced on the request of the Chief Inspector or an Inspector, or any person authorized in that behalf by the Provincial Government.

20. Originals of reports how long to be maintained.—The originals, or true copies, of all reports made in conformity with the Act or with the regulations, rules or bye-laws shall be maintained at the mine for a period of twelve months after having been made.

21. Posting up of extracts from Act, regulations etc.—There shall be kept posted up at or near every mine in English and in such Vernacular or Vernaculars as the District Magistrate may prescribe, copies of sections 10-12, 14-16, 17-20, 22, 23-28 and 34-43 of the Indian Mines Act, 1923, of the rules under section 30 of the Indian Mines Act, 1923, made by the Central Government as

amended from time to time and of the following abstract from the Indian Metalliferous Mines Regulations, 1926, namely —

RETURNS, NOTICES AND RECORDS

1. Annual returns in respect of the preceding year shall be submitted to the District Magistrate and to the Chief Inspector on or before the 21st day of January

Regulation 3

2 When a new mine is opened or a mine is re-opened after abandonment or discontinuance notices shall be sent in duplicate to the District Magistrate

Regulations 4 and 6

3 When a mine has been abandoned or discontinued or a change of ownership has taken place or a new appointment of an agent or manager has been made or a change of address occurs, notice of the same shall be sent to the Chief Inspector

Regulations 5, 7 and 8

4 When the ownership of a mine is transferred, all mine plans, books and records shall be handed over to the new owner

Regulation 9

5 If it is intended to extend mining operations at or to any point with 50 yards of land acquired for a railway or for a public purposes, notices and plans shall be sent to the specified authorities.

Regulations 10, 11 and 12

6. When any accident occurs in or about a mine causing loss of life or serious bodily injury, or when an accidental explosion, ignition, outbreak of fire or irruption of water occurs in or about a mine, the owner, agent or manager of the mine shall forthwith inform the Chief Inspector by telephone or telegraph, and shall also, within twenty-four hours of the occurrence of such accident, explosion, ignition, outbreak or irruption send notice thereof in form IX to the District Magistrate or to the Sub-divisional Magistrate, who shall forward it to the Chief Inspector

Regulation 13

7. If death results from any injury already reported as serious under Regulation 13, the owner, agent or manager of the mine shall, within twenty-four hours of his being informed of the death, send notice thereof to the District Magistrate or to the Sub-divisional Magistrate, who shall forward it to the Chief Inspector.

Regulation 14

PLANS

8. At every mine of gold, manganese, copper, lead, tin and wolfram and at such other mines or classes of mines as the Central Government may, by notification in the official *Gazette*, specify, a plan and section or sections shall be kept at the mine office showing all shafts, drives, crosscuts, winzes, rises, excavations (stoped ground) and any tunnels connected therewith. The plan shall also show the leasehold boundaries, the magnetic

meridian with date, the general strike and dip of the veins or mineral deposits and the dislocations of the strata, also all important surface features within the boundaries such as railways, rivers, streams, roads and reservoirs which overlie any part of the workings or any point within 600 feet of any part of the mine workings. Mines in which the workings do not extend under the superjacent ground and mines in which excavation is being made for prospecting purposes only, are exempted from the provisions in respect of plans

Regulations 15 and 16

MANAGEMENT

9 An Inspection Book shall be kept at every mine in which Inspectors may record their observations. At the commencement of the book the name of the mine and the name and address of the owner, agent and manager of the mine shall be recorded

Regulation 20

10 The owner or agent of a mine shall appoint a competent person of not less than 21 years of age to be manager of the mine. One person may be appointed manager of more mines than one, provided that the size of such mines and the distance between them is not so great as to prevent him performing his duties thoroughly

Where by reason of absence or for any other reason the manager is unable to perform his duties, the owner, agent or manager shall authorise in writing a competent person to act as manager of the mine for a period not exceeding one month and shall, without delay, send a written notice to the Chief Inspector stating the reason for the authorization, and the qualifications and experience of the person so authorised

Regulation 21

SHAFTS AND OUTLETS

11 Where any part of a mine is so situated that there is any danger whatever of an irruption of surface water into the mine adequate protection against such an irruption shall be provided and maintained

Regulation 22

12. At every mine where more than 20 persons are employed underground there shall be at least two shafts or outlets, not nearer to one another than 20 feet, affording separate means of ingress and egress to all persons employed in the mine

Proper arrangements shall be made for persons to descend to, and ascend from, the mine at each of such shafts or outlets, and, if apparatus is necessary, it shall be kept constantly available for use.

Regulation 23.

13 Adequate stationary lights shall be provided and used during working hours :—

- (1) at all places where persons have to work underground in the immediate vicinity of shafts,

- (2) after dark at the tops of all working shafts and at all winding engines used for raising and lowering persons

RAISING AND LOWERING PERSONS OR MATERIALS

14 At shafts where persons are lowered or raised by mechanical power the winding apparatus shall be provided with —

- (a) one or more breaks on the drum shaft of sufficient power to hold the loaded cage, skip or bucket at any point in the shaft,
- (b) a proper depth indicator if the shaft exceeds 100 feet in depth,
- (c) guides, if the shaft exceeds 150 feet in depth
- (d) flanges or horns on the drum to prevent the rope slipping

Cages shall be provided with tub-catches, rigid gates and hand bars and shall be covered in completely at the top and closed in at sides sufficiently to prevent persons or things projecting beyond the sides

A single linked chain shall not be used for lowering or raising persons in any working shaft or plane except for a short coupling chain.

15 Every working shaft exceeding 150 feet in depth and used for drawing mineral or for lowering or raising persons, shall be provided with proper means of signalling between the shaft bottom and the surface and every mid-inset and the surface and also from the top of the shaft to the winding engine. All signals shall be transmitted by mechanical or electrical means.

The first three or principal signals shall be :—

One rap or bell	... RAISE	when engine at rest
One rap or bell	... STOP	when engine in motion
Two raps or bells	.. LOWER	
Three raps or bells	... Men ready to ascend or descend	
Three raps or bells	. IN REPLY	Men may enter the cage or other conveyance

16. The manager, or a competent person or persons appointed by the manager, shall, once at least in every twenty-four hours, examine the state of the external parts of the machinery, and of the head-gear, ropes, chains, cages, guides and conductors in the shaft and other similar appliances which are in actual use, both underground and above ground, and, if more than 20 persons are employed in the mine simultaneously, shall without delay write or cause to be written in a paged book a full and accurate report of the result of such examination.

Regulation 24.

17. No minerals, tubs or materials shall be wound while persons are being wound in the same shaft whether in the same cage or not

Regulations 26 and 27

18 Every windlass, whim or whip in use at a shaft or winze shall be provided with a stopper, lynch peg or other reliable holder.

Regulation 29.

19 The bucket, skip or any wagon in the cage shall not be filled up to such height that any of the contents can fall out, and the bottom of the cage shall be kept clean.

Regulation 30.

20 When tools, wood, etc., with ends projecting over the top of the cage, skip or bucket are being lowered or hoisted, the projecting ends shall be securely fastened to the rope or bow

Regulation 31

21 Not more than such number of persons as may be authorised by the manager shall be allowed to ride in the same cage, tub, skip or bucket at one time, and a notice specifying the authorized number shall be posted at the top of every shaft and at every inset in a shaft

Regulation 32

22 At the top of every incline on which the haulage, not being endless rope or endless chain haulage, is worked by mechanical power or gravity there shall be stop-blocks or other similar contrivances to prevent wagons from running away. Additional stop-blocks or runaway switches, or some other appliance for arresting or dictating the descent wagons in the event of a runaway, shall be fixed below the first stop-blocks at a greater distance than the length of a train of wagons. There shall also be provided and attached behind the ascending wagon or train of wagons a backstay, drag or other suitable contrivance for preventing the wagon or wagons from running back

Regulation 35

MINE WORKINGS

23 In open workings the sides shall be properly sloped, stepped or secured and tressed, overburden and all loose ground and material, shall be removed from the edge, or otherwise secured, in order to prevent danger to persons employed in the mine.

Regulations 38, 39 and 40.

24 The roofs and sides of all travelling roads and working places shall be made and kept secure.

Regulation 41.

25. Where the ground is not safe, all shafts in use shall be made secure with suitable timber-work or other means of support.

Regulation 42

26. A competent person or persons appointed by the Manager shall inspect, at least once in every shift, every part of the mine in or through which any person has to work or pass, for the purpose of ascertaining the condition thereof as far as ventilation, roof, sides and general safety are concerned, and shall, once at least in every week, inspect all shafts by which persons ascend and descend. If more than 20 persons are employed in the mine simultaneously a written report of such inspection shall be made without delay in a book kept at the mine for the purpose.

Regulation 43

No person shall be appointed to carry out the foregoing inspection unless he has attained the age of 21 years and has had sufficient practical experience of the working of mines.

Regulation 21 (4).

27 Every place where work is carried on or when men are stationed or pass shall be placed under the charge of a competent person appointed by the manager or underground manager

Regulation 44

28 If a working place or travelling road is found to be unsafe, all persons shall be withdrawn from the dangerous areas and all access to the place, except for the purpose of removing the danger or saving life, shall be prevented by securely fencing off all entrances

Regulation 45

29 The top and all entrances between the top and bottom of shafts, winzes, shoots or sliding holes and any openings into a stope more than 10 feet deep below a drive and other dangerous openings, shall be provided with a permanent or removable barrier in order to prevent persons or things from falling into them. When a shaft, winze, rise or stope leads directly into a travelling road or place where persons are stationed at work, the traffic at such points shall be protected against danger from anything falling from above

Regulation 46

30 At every shaft station where it is necessary for persons to pass from one side of the shaft to the other, provision shall be made enabling them to do so without entering or crossing a compartment

Regulation 47

31. All ladders, ladderways, platforms, doors, fences and other appliances and things in use underground shall be maintained in proper repair. Temporary ladders, platforms or other means of climbing or keeping a footing while at work shall be provided in sinks, winzes, rises, stopes and other places where they are needed

Regulation 48

32. Where any working is approaching any place containing or likely to contain a dangerous accumulation of water, the working shall not exceed six feet in width or height, and boreholes shall be made and kept a sufficient distance in advance of the face to prevent danger from inundation

Regulation 49

33 The ventilation in every mine shall be sufficient to clear away smoke and dilute and render harmless inflammable and noxious gases, so that shafts and workings of the mine shall be in a fit state for working or passing

Regulation 50

34. After underground workings, shafts, sumps or winzes have been in disuse for some time, a thorough examination shall be made before workmen are re-admitted.

Regulation 51.

LADDERWAYS

35 In ladder-shafts making an angle of 25 degrees or less with the vertical, platforms shall be provided at intervals not exceeding 35 feet and the ladders shall be placed so as to cover the openings in the platforms.

Ladders shall be fixed at an inclination of not less than one foot horizontal to every 10 feet vertical

Regulation 54

36 In ladder-shafts where the slope is less than 65 degrees and more than 30 degrees with the horizontal, platforms shall be placed at intervals of not more than 55 along the underlie or slope of the shaft

Regulation 55

37 All platforms shall be securely fenced

Regulation 56

38 All ladders shall be securely fastened to the sides or timbering of the shafts.

Regulation 57

39 All ladders shall project at least three feet above the shaft-top and above every platform, or strong holdfasts shall be provided at these places in convenient positions.

Regulation 58

40 If a ladderway is a compartment of a shaft which is used also for other purposes, it shall be closed off from the other compartment

Regulation 59.

41 Every ladderway-opening in any travelling road or place where men are stationed or pass shall be provided with a door with a substantial fence

Regulation 60

EXPLOSIVES

42 Explosive shall not be taken into or kept in a dwelling house, but only in a properly constructed magazine

Regulation 63

43. Explosives shall be issued only to competent persons appointed in writing and the names of such persons shall be recorded in a book to be kept for the purpose. No unauthorized person shall have explosives in his possession

Regulation 64

44 Detonators shall be kept in a securely locked box separate from any other explosive, and no detonator shall be inserted into a priming cartridge until immediately before it is to be used

Regulation 67

45 All blasting operations shall be conducted by or under the personal direction of duly competent persons, not less than 18 years of age, appointed by the manager, underground manager or foreman. The names of these persons shall be registered in a book to be kept for the purpose

a

Regulation 71

46. The number of shots fired, the quantity of explosives used and the number of shots (if any) which have misfired shall be recorded daily in a book to be kept for the purpose.

Regulation 73

47 All unused explosives shall be returned to the magazine without delay
Regulation 74

48 No explosive shall be taken into a mine except in a secure case, canister or bag containing not more than five pounds

Regulation 75

49 When explosives are being carried on a ladder, each case, canister or bag shall be securely fastened to the person carrying it

Regulation 76

50 No person shall use an iron or steel tool for charging or stemming a hole, and no explosive shall be forcibly pressed into a hole.

Regulation 78

51 Before a shot is fired in an underground working place warning shall be given to persons in the vicinity, and every entrance to the place where the shot is about to be fired shall be guarded

Regulation 79

52 In open workings due warning shall be given by an efficient system of signals before blasting is commenced and when it is finished

Regulation 79 (2)

53 When a misfire occurs in a working place, no person shall re-enter such place until 30 minutes after blasting, unless the shot has been fired electrically when the interval shall be not less than 10 minutes

Regulation 80

54 After a shot has been fired in an underground working place the person who fired the shot or a competent person appointed in writing by the manager of the mine shall, before any other person enters the place, make a careful examination and with his assistants make the place safe. No other person shall enter the place until the examination has been made and the place has been declared to be safe in all respects.

Regulation 81

55. When a hole has been charged, the explosive shall not be unrammed and no hole shall be bored at a distance of less than 12 inches from any hole where a charge has misfired.

Regulations 82 and 84

WORKMEN

56. No person shall get on or off a cage, skip, tub or bucket used for lowering or raising persons after the same has been set in motion, or leave it until it has reached the appointed stopping place; nor shall any person ride on the top or edge of any cage, skip, bucket or box except when engaged upon work in the shaft.

Regulation 25.

57. Every person, when at or about the top or bottom of a shaft, shall obey the orders and directions of the shaft attendants

Regulation 28

58 Where wagons are moved by hand no person shall permit a wagon to run uncontrolled

Regulation 36

59 No person shall ride upon any tub, truck or wagon either underground or above ground without the permission of the manager

Regulation 37

60 Every person shall carry a light where stationary lights are not provided underground

Regulation 52

61 No person shall work in any place other than a place in which he has been ordered to work.

Regulation 53

62 No person shall carry any drill, tool or any loose material on any ladderway in a vertical or steeply inclined shaft or winze except on a ladderway to a stope

Regulation 61

63 No person shall deepen or tamper with empty holes or sockets left after blasting

Regulation 82

64 Every person shall strictly comply with all lawful orders issued by the manager

Regulation 89

65 No person shall damage, destroy or improperly interfere with anything provided for or used in the working of the mine

Regulation 92

66 No person shall remove or pass through any fence or remove or pass any danger signal, unless specially authorised to do so.

Regulation 93

MISCELLANEOUS

67. Every fly-wheel and all exposed and dangerous parts of the machinery shall be kept securely fenced

Regulation 87.

68. Efficient guards shall be provided for such parts of any machinery and any electrical conductors as may be a source of danger

Regulation 86

22. *Copies of extracts, regulations, etc., not to be injured or defaced.*—No person shall pull down, injure or deface any abstract of the Indian Mines Act, 1923, or any copy of the regulations, rules or bye-laws made thereunder or of any abstract thereof which is posted up at any mine or any notice posted up in pursuance of the regulations of the mine.

SCHEDULE A

REGISTER OF EMPLOYEES.

Section 28 (1) of the Indian Mines Act, 1923

(See Rule 10)

*Name of mine**Name of owner*

No.	Date of employment	Name of person in full	Age	Sex	Occupation
1	2	3	4	5	6

Employed			Period of Work.		Rest interval.	
under ground	in open workings	on surface	From	To	From	To
7	8	9	10		11	

Days of rest 12	No of relay 13	Remarks 14

SCHEDULE B

NOTICE OF COMMENCEMENT AND END OF WORK
OR OF RELAYS AND OF INTERVAL FOR REST

Section 23-B (1) of the Indian Mines Act, 1923
(See Rule 10-A)

Name of Mine

Name of owner

It is hereby declared that persons employed in this mine shall begins their $\frac{\text{work}^*}{\text{relay}}$, shall enjoy the interval for rest, and shall end their $\frac{\text{work}^*}{\text{relay}}$, between hours set out below.—

Occupation	Hours of $\frac{\text{Work}}{\text{first relay.}}$		
1	2	3	4
	Interval for rest.		
	Works begins A. M. ⁺ P. M.	Begins A. M. ⁺ P. M.	Ends A. M. ⁺ P. M.

⁺ The words and letters not required should be scored out.

Hours of second relay, if any			
5	6	7	
Interval of rest			
Work begins	Begins	Ends	Works ends
A M	A M	A M	A M
P M	P M	P M	P M
Hours of third relay, if any			
8	9	10	
Interval for rest			
Work begins	Begins	Ends	Works ends
A M	A M	A M	A M
P M	P M	P M	P M
Dated	19	Manager.	

INDIAN COAL MINES REGULATIONS, 1926

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PREAMBLE AND DEFINITIONS

Chapter I—Returns, Notices and Records.

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Chapter V—Shafts and outlets.

Chapter VI—Raising and lowering persons or materials

Chapter VII—Roads and working places.

* The words and letters not required should be scored out

NOTE—The work of persons employed below ground is to be reckoned from the time such persons leave the surface of the mine to the time when they fully return thereto at the end of the work or of the relay.

- Chapter VII-A—Special precautions against spontaneous combustion and underground fires
- Chapter VIII—Haulage.
- Chapter IX—Explosives
- Chapter X—Ventilation and lighting
- Chapter XI—Fencing and gates
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- The Schedule—Forms

INDIAN COAL MINES REGULATIONS, 1926¹

REGULATIONS FOR COAL MINES

1. (1) These regulations may be called the Indian Coal Mines Regulations, 1926

(2) It extends to all the Provinces of India including Berar and every reference therein to the Provinces shall be construed as including a reference to Behar.

(3) They shall apply only in respect of coal mines

2. In these regulations, unless there is anything repugnant in the subject or context—

(a) “the Act,” means the Indian Mines Act, 1923 ,

(b) “approved safety lamp”, “approved flame safety lamp” and “approved electric torch” mean, respectively, a safety lamp, a flame safety lamp or an electric torch manufactured by such firm and of such type as the Chief Inspector may from time to time specify by notification in the *Official Gazette*, and includes any other safety lamp or electric torch approved by the Chief Inspector by an order in writing ;

(c) “the District Magistrate”, in relation to any mine, means the District Magistrate of the district in which the mine is situated :

Provided that in the case of a mine which is situated partly in one district and partly in another, the District Magistrate for the purposes of these regulations shall be the District Magistrate authorised in this behalf by the Central Government ;

(d) “Form” means a Form as set out in Schedule I ;

¹ These Rules were published under Government of India, Department of Labour Notification No M-1055 (I) dated the 7th September, 1926

- (e) "permitted explosive" means an explosive permitted by the Chief Inspector under such definition and subject to such conditions as he may from time to time lay down by notification in the *Official Gazette*,
- (f) "ventilating district" means such part of a mine as has an independent intake airway commencing from a main intake airway, and an independent return airway terminating at a main return airway.

CHAPTER I.

RETURNS, NOTICES AND RECORDS

3. (1) On or before the tenth day of every month, the owner, agent or manager of every mine shall send to the Chief Inspector a correct return in Form I of all raisings and despatches during the preceding calendar month.

(2) On or before the twenty-first day of January in each year the owner, agent or manager of every mine shall forward to the District Magistrate and to the Chief Inspector annual returns in respect of the preceding year in Forms II, III, IV, V, VI, VII and VIII.

(3) If any mine is abandoned or the working of any mine has been discontinued over a period exceeding three months or if a change occurs in the ownership of any mine, the returns required by sub-regulation (2) shall be submitted within one month from the date of abandonment or change of ownership or within four months from the date of discontinuance.

Provided that the Chief Inspector may by order in writing extend the period for the submission of such returns up to any date not later than the twenty-first day of January in the year following that to which they relate:

Provided further that nothing in this sub-regulation shall be deemed to authorise the submission of any return later than the twenty-first day of January in the year following that to which it relates.

(4) On or before the first day of March in each year the owner, agent or manager of every mine shall forward to the Chief Inspector in duplicate a return in Form II-A, duly filled in. The figures given in the return shall relate to that day on which the number of persons

attending work was highest during such week in February of that year as is selected in advance by the Chief Inspector.

4. The notice required by section 14 of the Act shall be furnished in duplicate, and shall specify the name and situation of the mine, the names and addresses of the owner and the manager, and, in the case of a new mine, the date on which it was opened. The District Magistrate shall on receipt of the notice forward one copy thereof to the Chief Inspector.

5. When a mine or seam has been abandoned, or the working thereof has been discontinued over a period exceeding two months, the owner of the mine shall, within one month after the abandonment or within seven days after the expiry of the said period, as the case may be, send to the Chief Inspector notice in writing specifying the name and situation of the mine, the name and address of the owner, and the date and cause of the abandonment or discontinuance.

6. When a mine or seam is re-opened after abandonment or discontinuance, the owner, agent or manager shall, within one month after the date of the re-opening, send to the District Magistrate notice in writing in duplicate specifying the name and situation of the mine, the names and addresses of the owner and the manager, and the date of the re-opening. The District Magistrate shall on receipt of the notice forward one copy thereof to the Chief Inspector.

7. When a change occurs in the name of, or in the ownership of, a mine, notice in writing of the change and of the date thereof shall be sent by the owner, agent or manager to the Chief Inspector within one month from the date of the change.

8. When any new appointment is made of an agent or manager of a mine or any change of address of any agent or manager occurs, notice of the appointment or change and of the date thereof shall be sent by the owner, agent or manager to the Chief Inspector within one month from the date of the appointment or change.

9. When the ownership of a mine is transferred, the previous owner or his agent or manager shall make over to the new owner all plans, books and other records required to be kept under the Act, and all correspondence relevant to the working of the mine with the Department of Mines and other Government departments.

10. If the owner, agent or manager of any mine intends to conduct or extend any mining operations under his control at or to

any point within fifty yards of any railway subject to the provisions of the Indian Railways Act, 1890, or of any public work in respect of which this regulation is applicable by reason of any general or special order of the Central Government under clause (u) of section 29 of the Act, he shall not less than sixty days before commencing such operations, give notice of his intention to the Chief Inspector and also, in the case of a railway, to the Railway Administration concerned, or, in the case of any such public work as aforesaid, to such authority as the Central Government may by general or special order direct.

10A.—*If in any mine it is intended to conduct or extend the extraction or reduction of pillars at or to any point within fifty yards of any railway subject to the provisions of the Indian Railways Act, 1890, the owner, agent or manager of the mine shall, not less than sixty days before commencing such operations, give notice of such intention to the Chief Inspector and also to the Railway Administration concerned.*

11. If the operations in respect of which notice is given under regulation 10 or 10-A are not commenced within twelve months from the expiry of the period of sixty days therein referred to, the notice shall be held to have lapsed and the provisions of that regulation shall apply as if no such notice had been given.

12. The notice to be given under regulation 10 or 10-A shall specify the position of the workings of the mine in relation to the railway or public work in question, the manner in which it is proposed to carry out the intended new operations and the limits to which it is proposed to carry the said operations, and shall include a plan showing the existing and the intended mining operations in so far they affect the railway or public work in question.

13. When any accident occurs in or about a mine causing loss of life or serious bodily injury, or when an accidental explosion, ignition, outbreak of fire or smoke, or other indication of outbreak of fire or an influx of noxious gases or irruption of water occurs in or about a mine, the owner, agent or manager of the mine shall forthwith inform the Inspector by telephone or telegraph and shall also, within twenty-four hours of any such occurrence send notice thereof in Form IX to the District Magistrate, or to the Sub-Divisional Magistrate, who shall forward it to the Chief Inspector

14. If death results from any injury already reported as serious under regulation 13, the owner, agent or manager of the mine shall,

within twenty-four hours of his being informed of the death, send notice thereof to the District Magistrate or to the Sub-Divisional Magistrate, who shall forward it to the Chief Inspector

CHAPTER II

PLANS

15. (1) All plans prepared in accordance with the provisions of this Chapter shall—

- (a) bear the name of the mine and of the owner ;
- (b) show the scale together with the magnetic meridian and the date of the latter ,
- (c) be properly inked on durable paper, or on tracing cloth , and
- (d) be on a scale of 100 feet to the inch

Provided that where plans have been prepared on any other scale before the passing of these regulations, the Chief Inspector may on application by the owner, agent or manager permit such plans to be maintained on that scale

(2) The owner, agent or manager of every mine shall keep a plan of the workings of the mine. The position of the workings at the time of the last survey shall be shown by a dotted line drawn through the ends of the workings ; such dotted line shall be marked with the date of the last survey. The plan shall also show all shaft and incline openings, all goaves, the boundaries of the underground leasehold, where possible, and all important features within the boundaries, such as railways, roads, rivers, streams, *tanks*, buildings and reservoirs which overlie any part of the workings or any point within 600 feet of any part of the workings measured on the horizontal plane ; also the general direction and rate of dip of the strata, the depth of every shaft, a section of the seam being worked and the position of all faults and dykes with the amount and direction of their throw. There shall be a separate plan of the workings of each seam, and of each separate section of each seam.

(3) The owner, agent or manager of every mine shall also keep a separate tracing of a surface plan showing all surface features referred to in sub-regulation (2), and in addition all buildings and erections on the surface and within the boundaries which overlie the

workings of the mine or any point within 600 feet of the workings measured on the horizontal plane.

(3A) (i) The owner, agent or manager of every mine shall also keep a separate plan showing the system of ventilation in the mine, and, in particular, the general direction of the air-currents, the points where the quantity of air is measured and the principal devices for the regulation and distribution of the air. So far as practicable the intake airways shall be coloured blue and the return airways red

(ii) The positions of any underground ambulance stations and telephones shall be indicated on the plan.

(iii) The code of signs set out in Schedule II shall be utilised in plans made under this sub-regulation.

(4) The plans required by this regulation shall be kept in the office at the time. They shall be accurate and shall be maintained up to a date within six months ; provided that where any mine or seam is abandoned or the working thereof has been discontinued the plan shall, before such abandonment or immediately after such discontinuance, be brought up to date to the time of abandonment or discontinuance has been caused by circumstances beyond the control of the owner, agent, or manager, in which case the fact that the plan is not up to date shall be recorded on it

(5) Nothing in this regulation shall be deemed to apply to any mine in which the workings do not extend under the super-jacent ground, or to any mine in which excavation is being made for prospecting purposes only :

Provided that the Chief Inspector may direct that the regulation shall apply to any such mine to such extent as he may think fit.

16. The owner, agent or manager of every mine shall at any time on the request of the Chief Inspector or of any Inspector produce to him at the office at the mine such plans and sections, and also, on the like request, mark on such plans and sections the then state of the workings of the mine ; and the Chief Inspector or Inspector shall be entitled to examine the plans and the sections and for official purposes to make or have a copy made of any part thereof respectively.

17. Where any mine or seam is abandoned, or the working thereof has been discontinued over a period exceeding one year, the person who was the owner of the mine at the time of the abandonment or discontinuance shall, within three months after the

abandonment or within fifteen months after the discontinuance of working, as the case may be, send to the Chief Inspector accurate plans and sections of the workings of the mine or seam up to the time of the abandonment or discontinuance, showing the pillars of coal remaining unworked and all other features required in compliance with these regulations, or a true and accurate copy of the same

Provided that if a change of ownership occurs after the abandonment or discontinuance and before the expiry of the three months or the fifteen months aforesaid, as the case may be, such plans and sections shall be sent forthwith.

18. After the expiry of ten years from the date of abandonment or discontinuance of working in any mine or seam or, where the consent of the owner of the mine for the time being has been obtained, prior to the expiry of the said period, the Chief Inspector may, on such conditions as he thinks fit to impose, permit any person having an interest in the said mine or seam to inspect the plan or section of such mine or seam sent to him in accordance with the provisions of regulation 17 ; and he may further, on such conditions as he thinks fit to impose, supply to any such person copies of the like plan or section

19. The Central Government may direct that after such date and in such areas as he may appoint in this behalf the plans required to be kept under regulation 15 or to be sent under regulation 17 shall be prepared by or under the supervision of a surveyor who has been granted a surveyor's certificate under these regulations. This Regulation was made applicable to mines in Assam, Bengal, Bihar, Central Provinces and Orissa.

CHAPTER III.

MINES OFFICIALS.

20. For the purposes of this chapter every system of underground workings interconnected in such a manner that communication is practicable from any one part of the system to any other part by means of underground channels shall be deemed to constitute one mine. If access from one system of underground workings to another such system is not so practicable each such system shall be deemed to constitute a separate mine.

21. A duly qualified manager may be permitted by order in writing of the Chief Inspector to manage more than one mine, if the Chief Inspector is of opinion that the mines supervised by him are sufficiently near to one another to permit of effective supervision being exercised, and that an adequate subordinate supervising staff is maintained at each mine. The Chief Inspector may at any time, by order in writing, revoke any such permission and such order shall be final.

22. Save as provided by regulation 21 no person shall act as manager of more than one mine.

22A. *No person shall be employed in a mine as manager unless he is paid by, and is directly answerable to, the owner of the mine.*

23. Save as hereinafter provided in regulation 24—

- (a) no person shall act as manager of a mine, the average monthly output of which exceeds 2,500 tons, unless he holds a first class manager's certificate granted under these regulations ;
- (b) no person shall act as manager of a mine, the average monthly output of which exceeds 600 tons, unless he holds a first or second class manager's certificate granted under these regulations and
- (c) no person shall act as the manager of a mine, the average monthly output of which does not exceed 600 tons, unless he holds a first or second class manager's certificate or a manager's permit granted under these regulations ;

Provided that the Chief Inspector may, by order in writing, direct that in the case of any such mine as is referred to in clause (b) the manager thereof shall be the holder of a first class manager's certificate granted under these regulations, and that in the case of any such mine as is referred to in clause (c) the manager thereof shall be the holder of a first or second class manager's certificate under these regulations ;

Provided further that an appeal from any order passed by the Chief Inspector under the foregoing proviso shall lie to the Mining Board constituted under Section 10 of the Act or, if no Mining Board has been so consti-

tuted for the part of the Provinces in which the mine or part of the mine is situated, to the Central Government and the order of the Mining Board or of the Central Government thereon shall be final

24. (1) The Chief Inspector may, by order in writing, authorise any person, whom he may consider competent, to act as manager of any mine or mines for a specified period, notwithstanding that such person does not possess the qualifications prescribed in that behalf by regulation 23 and may by a like order revoke any such authority at any time and such order shall be final.

(2) In every mine personal supervision shall be exercised by the manager.

(3) Where by reason of absence or for any other reason the manager is unable to exercise personal supervision the owner, agent or manager shall authorise in writing a person whom he considers competent to act as manager of the mine ,

Provided that —

(a) such person holds a manager's certificate or a sirdars certificate ;

(b) no such authorisation shall have effect for a period in excess of one month except with the previous consent of the Chief Inspector nor without the like consent shall a second authorisation be made to take effect upon the expiry of the first ;

(c) the owner, agent or manager, as the case may be, shall send to the Chief Inspector with the least possible delay, a written notice intimating that such an authorisation has been made, and stating the reason for the authorisation, the qualifications and experience of the person authorised and the dates of the commencement and ending of the authorisation ; and

(d) the Chief Inspector may by order in writing revoke any authority so granted, and such order shall be final.

24A. (1) *The manager of every mine shall ensure that a sufficient supply of proper materials and appliances for the purpose of carrying out the provisions of the Act and of the regulations, rules and bye-laws made thereunder and ensuring the safety of the mine and the persons employed therein, is always provided at*

the mine, and, if he be not the owner or agent of the mine, he shall report in writing to the owner or agent of the mine when anything is required for the aforesaid purposes that is not within the scope of his authority or order.

(2) A copy of every report made under sub-regulation (1) shall be kept in the office at the mine

25. (1) The manager of every mine shall appoint in writing such number of competent persons as will be sufficient to secure a thorough supervision of all the operations in the mine and the enforcement of the requirements of the Act and of the regulations, rules and bye-laws made thereunder. He shall assign to every such person his particular duties, shall on his appointment make over to him a copy of the regulations, rules and bye-laws which affect him and shall take all possible steps to ensure that every such person understands, carries out and enforces the provisions therein contained. *No person shall be appointed under this regulation unless he is paid by the owner of the mine and is directly answerable to the owner or the manager of the mine.*

(2) Copies of all appointments made under sub-regulation (1) and all authorisations made under these regulations shall be entered in a bound pagged book kept in the office at the mine.

(3) Every manager shall on appointment satisfy himself that all persons already appointed under sub-regulation (1) or authorised under these regulations to discharge any functions are competent to perform the duties assigned to them.

26. Every person employed underground in a mine as an official subordinate to the manager and superior to the underground sirdar shall hold either a manager's certificate or sirdar's certificate granted under these regulations.

27. With effect from such date and in such areas as the Central Government may notify in the *official Gazette* no person shall be employed as a surveyor in a mine unless he holds a surveyor's certificate granted under these regulations.

28. No person shall be employed as a winding engine man unless he has attained the age of 21 years ; and the manager or some competent person appointed by the manager for the purpose shall, before appointing any such person, satisfy himself that such person is competent to perform the duties assigned to him.

CHAPTER IV.

CERTIFICATE OF COMPETENCY, PERMITS AND AUTHORISATIONS.

29. (1) There shall be constituted a Board of Examiners for the purposes of these regulations, which shall consist of the Chief Inspector, who shall be the Chairman of the Board, and of four Members possessing technical qualifications fitting them to serve on the Board, who shall be appointed by the Central Government for a term of three years:

Provided that on the expiry of any term for which he has been appointed, any Member shall be eligible for re-appointment.

(2) A Member of the Board of Examiners (other than the Chairman) shall receive such remuneration as the Central Government may fix.

30. (1) Certificates under these regulations shall be granted by the Board of Examiners, and all decisions of the Board regarding the grant of such certificates shall be final.

(2) Certificates granted by the Board shall be valid throughout the Provinces, and shall be of the following kinds —

(a) first and second class certificates of competency to manage a mine (in these regulations referred to as managers' certificates) ;

(b) certificates of competency to survey the workings of a mine (in these regulations referred to as surveyors' certificates) ;

(c) certificate of competency to make the inspections hereinafter required by regulation 70 (in these regulations referred to as sirdars' certificates) ;

(d) certificates of competency to fire shots in a mine (in these regulations referred to as shot-firers' certificates).

31. (1) Certificates shall be granted to candidates after such examination and in such form as the Board of Examiners may prescribe.

(2) The examinations shall be held at such times and at such centres as may be fixed by the Board, and shall be conducted by local examiners who shall be appointed by the Board.

(3) The local examiners so appointed shall be subject to the orders of the Board in respect of all matters relative to the conduct of the examinations, and shall receive such remuneration as the Board, with the sanction of the Central Government may fix.

(4) The Board may make rules as to the conduct of the examinations, and shall, so far as may be practicable, provide that the standard of knowledge requisite for the grant of certificates of any particular class shall be uniform throughout the Provinces.

(5) Every rule made by the Board under this regulation shall be published in the *official Gazette* and no such rule shall have effect until six months from the date on which it was first so published.

32. Full information regarding the date and place of each examination for managers' and surveyors' certificates shall be published under the orders of the Board of Examiners in such publications and at such intervals as the Board may direct, during a period of not less than three months prior to the date fixed by the Board for receiving applications.

33. No person shall be admitted as a candidate at any examination for a manager's certificate unless he has gained a First Aid Certificate of the St John Ambulance Association or other Society or Body approved by the Central Government.

Provided that if any candidate satisfies the Board of Examiners that he has not had sufficient opportunity to obtain such a certificate, the Board may admit him to the examination on such conditions, if any, as it thinks fit to impose.

34. No person shall be admitted as a candidate at any examination for a first class manager's certificate unless he has attained the age of 23 years, and has satisfied the Board of Examiners that he has had practical experience in a coal mine for a period of not less than five years.

Provided that this period shall be reduced to three years in the case of a candidate who has received a diploma or certificate in scientific and mining training after a course of study of at least two years at an educational institution approved in this behalf by the Central Government, or who has taken a degree in scientific and mining subjects at a University approved in this behalf by the Central Government.

35. No person shall be admitted as a candidate at any examination for a second class manager's certificate unless he has attained the age of 21 years, and has satisfied the Board of Examiners that he has had practical experience in a coal mine for a period of not less than three years:

Provided that this period shall be reduced to two years in the case of a candidate who has received a diploma or certificate in scientific and mining training after a course of study of at least two years at an educational institution approved in this behalf by the Central Government or who has taken a degree in scientific and mining subjects at a University approved in this behalf by the Central Government.

36. The periods of practical experience in a coal mine prescribed in regulations 34 and 35 may, subject to such conditions as the Board of Examiners thinks fit, be reduced at the discretion of the Board in the case of a candidate part of whose experience has been obtained in mines other than coal mines

37. The nature of the practical experience required of a candidate under regulations 34 and 35 shall be experience gained in one or other of the following capacities in a coal mine, namely —

- (a) as an underground workman having direct practical experience in the work of getting coal, and of stone work, timbering and repairing ;
- (b) as a sirdar, deputy, overman, foreman, assistant or under-manager or other underground official ,
- (c) as a mining apprentice, mine surveyor or colliery engineer, whose practical experience has included—
 - (1) actual practical work (other than the work of mine surveying or colliery engineering) of not less than two years in the case of candidates for first class certificates, and of not less than one year in the case of candidates for second class certificates, in any part of the underground workings of a coal mine, or
 - (2) direct supervision of such work during a like period.

38. No person shall be admitted as a candidate at any examination for a surveyor's certificate unless he has attained the age of 21 years and has satisfied the Board of Examiners that he has had two years' practical experience of surveying, of which at least six months shall have been practical experience of surveying the underground workings of a mine.

Explanations.—For the purposes of this regulation approved attendance at classes in theoretical and practical surveying at a technical institution approved in this behalf by the Board of

Examiners shall be considered to be practical experience of surveying other than practical experience of surveying the underground workings of a mine.

39. No person shall be admitted as a candidate at any examination for a sirdar's certificate unless he has attained the age of 21 years, and has satisfied the Board of Examiners that he has had practical experience in a coal mine for a period of not less than three years

Provided that this period shall be reduced to one year in the case of a candidate who has received a diploma or certificate in scientific and mining training after a course of study of at least two years at an educational institution approved in this behalf by the Central Government, or who has taken a degree in scientific and mining subjects at a university approved in this behalf by the Central Government.

39A. No person shall be admitted as a candidate at any examination for a short-firer's certificate unless he has attained the age of 21 years and has satisfied the Board of Examiners that he has had two years' practical experience of underground work in a coal mine of which at least six months shall have been practical experience in connection with shot-firing.

40. Examinations for sirdars' certificates shall be conducted orally in English or in the vernacular language of the district in which the examination is held and shall be designed to test the candidate's knowledge of the following subjects, namely:—

- (a) timbering.
- (b) methods of examination of the roof and sides of working places and travelling roads.
- (c) shot-firing as detailed in clause (a) of regulation 40-A.
- (d) mine gases and ventilation.
- (e) the provisions of the regulations, rules and bye-laws under the Act relating to the safety of persons employed in mines.
- (f) in the case of candidates for the endorsement referred to in the proviso to sub-regulation (1) of regulation 71, the methods of testing for and detecting the presence of inflammable gas.

40A. Examinations for shot-firers' certificates shall be conducted orally in English or in the vernacular language of the district

in which the examination is held and shall be designed to test the candidate's knowledge of the following subjects namely.—

- (a) the charging and firing of shots of gunpowder and high explosives,
- (b) the provisions of the regulations, rules and bye-laws under the Act relating to the handling and use of explosives; and
- (c) the examination of a working place after shot-firing.

41. Applications for admission to an examination for first or second class managers' or surveyors' certificates shall be made to the Chief Inspector not less than one month prior to the date fixed for the examination. Every such application shall be submitted on a form which shall be supplied free of charge by the Chief Inspector on application made in this behalf.

42. (1) Applications for admission to an examination shall be chargeable with fees which shall be paid in the manner prescribed in regulation 153 according to the following scale, namely.—

	Rs
(a) in the case of an examination for a first class manager's certificate .	25
(b) in the case of an examination for a second class manager's certificate .	15
(c) in the case of an examination for a surveyor's certificate . . .	15
(d) in the case of an examination for a sirdar's certificate . . .	5
(e) in the case of an examination for a shot-firer's certificate . . .	1

(2) The amount of any fee referred to in sub-regulation (1) less the following amounts shall be returnable to the person by whom it has been paid if the application of such person for admission to the examination is rejected:—

- (a) annas eight in the case of the fee paid for admission to an examination for a shot-firer's certificate;
 - (b) Re. 1 in the case of the fee paid for admission to an examination for a sirdar's certificate;
 - (c) Rs. 5 in any other case.
- (3) The Chief Inspector may permit the refund—
- (a) of the amount of any fee paid under sub-regulation (1) where the candidate has died before the examination or where the fee has been erroneously paid, and
 - (b) of any amount paid in excess of that specified in sub-regulation (1).

43. (1) (a). The Board of Examiners may grant to any person holding a manager's certificate, or a surveyor's certificate, granted

under any Act for the regulation of mines for the time being in force in any other country, a certificate of a similar class under these Regulations, and may grant to any person, holding a certificate of proficiency in mining or surveying, a manager's or surveyor's certificate, provided that in each of the aforesaid case the person satisfied the Board of Examiners with documentary evidence that he possesses the requisite knowledge and experience, and produces a certificate of good character from his previous employer, if any, and also from the agent or the manager of the Indian mine at which he took his training, and provided further that he has undergone for a period of not less than six months a course of practical training in the manner prescribed by the Chief Inspector in any of the Indian mines approved by the said Chief Inspector for the purpose, and in the case of an applicant for a manager's certificate, has also passed such examination in Mining Legislation and Mine Management as the Board of Examiners may prescribe.

(b) If a person intends to apply for a certificate referred to in sub-regulation (a), he shall, before commencement of his practical training in India, submit an application in the form set out in Schedule III to these regulations to the Chief Inspector, who may before according approval, impose such conditions as he may consider necessary.

(2) The following fees shall be chargeable in respect of applications for certificates to be issued under this regulation :—

	Rs.
(a) in the case of a manager's or surveyor's certificate	5
(b) in the case of a sirdar's certificate	2

The fees shall be paid in the manner prescribed in regulation 153.

44. If any person proves to the satisfaction of the Board of Examiners that he has without any fault on his part lost or been deprived of a certificate granted to him under these regulations, the Board may, upon such terms and conditions as it thinks fit, cause a copy of the certificate to be delivered to him. The word "Duplicate" shall be stamped across every such copy, and the following fees shall be payable in the manner prescribed in regulation 153 .—

	Rs	A	P
(a) in the case of a manager's or surveyor's certificate	2	0	0
(b) in the case of a sirdar's certificate	1	0	0
(c) in the case of a shot-firer's certificate	0	8	0

45. The Chief Inspector shall issue to every person to whom the Board of Examiners grants a sirdar's certificate or shot-firer's certificate a metal check marked with the registered number of the certificate

46. (1) The person to whom such metal check is issued shall, so long as the corresponding certificate remains in force, retain such check in his immediate possession, and shall not transfer it or dispose of it in any way. In the event of the corresponding certificate being cancelled, the check shall be returned to the Chief Inspector.

(2) No person employed in a mine other than the holder of the corresponding certificate for the time being in force shall be in possession of a metal check issued under regulation 45.

(3) If any person proves to the satisfaction of the Chief Inspector that he has without any fault on his part lost or been deprived of the metal check issued to him under regulation 45, the Chief Inspector may, upon such terms and conditions as he may determine, cause a second metal check bearing the registered number of his certificate to be delivered to him. The letter "D" shall be stamped on the reverse of every such check and a fee of four annas shall be payable in advance to the Chief Inspector in respect thereof

47. The holder of a sirdar's certificate or shot-firer's certificate shall deliver such certificate to the owner, agent, or manager of any mine in which he is for the time being employed ; and such owner, agent, or manager shall in exchange for the certificate deliver a receipt for the same to the holder, and shall retain the certificate so long as the holder thereof is employed in such mine, and shall return it to the holder on his ceasing to be so employed

48. Where it appears to the Central Government that any person holding a manager's certificate or a surveyor's certificate has been guilty of misconduct or incompetency in the discharge of his duties, or has been convicted of any offence made punishable by the Act with fine which may extend to Rs. 500/- or more, or with imprisonment, the Central Government may cause an inquiry into the conduct of such person to be made ; and with respect to such enquiry the following provisions shall have effect, namely :—

(a) The inquiry shall be public, and shall be held at such place as the Central Government may appoint, and by such person or uneven number of persons as it may direct (hereinafter in this regulation referred to as the

Court), either alone or with the assistance of any assessor or assessors appointed by the Central Government. Such assessors shall be practical mining engineers or persons with a knowledge of the practical working of mines. The functions of the assessors shall be purely advisory and they shall not be regarded as members of the Court

- (b) The Central Government shall, before the commencement of the inquiry, furnish the person whose conduct is under inquiry with a statement of the case on which the inquiry is instituted.
- (c) The Central Government may appoint any person to undertake the management of the case.
- (d) The person whose conduct is under inquiry may attend the inquiry, and may either conduct his case personally or be represented by any other person approved by the Court.
- (e) If a majority of the persons constituting the Court thinks fit, the person whose conduct is under inquiry may be required to deliver up his certificate at any time before or during the inquiry, and such persons shall be bound to comply with such requisition, unless he shows sufficient cause to the contrary.
- (f) The Court shall, on the conclusion of the inquiry, send to the Central Government a report containing a full statement of the case together with its opinion thereon and such account of or extracts from the evidence as it may think fit, and if it considers that the certificate in question should be cancelled or suspended it shall add a recommendation to that effect. In the event of disagreement between the members composing any Court, the dissentient or dissentients from the opinion of the majority may forward a separate report to the Central Government with a statement of their recommendations.
- (g) After considering the report or reports and the recommendations (if any) submitted under clause (f) the Central Government may cancel or suspend the certificate, and, if it does so, the fact of such cancellation or suspension shall, if the certificate is produced, be endorsed upon

it and, if it is not produced or if at any time a duplicate has been granted under regulation 44, be notified in the *official Gazette*.

49. If, in the opinion of an Inspector, a person to whom a sirdar's certificate or shot-firer's certificate has been granted is guilty of misconduct or incompetence in the discharge of his duties, the Inspector may suspend the certificate. Every such suspension shall be reported forthwith to the Board of Examiners and the Board shall thereupon, after such inquiry as it thinks fit, either remove or extend the suspension or cancel the certificate, and the decision of the Board shall be final.

50. (1) A permit (in these regulations referred to as a manager's permit) may be granted by the Chief Inspector at his discretion to any person authorising such person to act as the manager of any specified mine the average monthly output of which does not exceed 600 tons.

(2) All such permits shall be signed by the Chief Inspector and shall be valid for such period not exceeding one year as he may specify therein.

(3) A fee of five rupees shall be payable in the manner prescribed in regulation 153 in respect of an application for the grant of a manager's permit.

(4) The Chief Inspector may at any time renew any manager's permit for a further period not exceeding one year, notwithstanding that such permit has already been so renewed. No fee shall be chargeable in respect of any such renewal.

(5) A manager's permit may be cancelled at any time by the Chief Inspector by order in writing without assigning any reason for such cancellation and such order shall be final.

(6) Notwithstanding anything hereinbefore contained no manager's permit shall be granted or renewed to any person who is not the holder of a sirdar's certificate.

51. A register showing the names and addresses of all holders of certificates or permits granted under these regulations and all cancellations of such certificates or permits shall be maintained in the office of the Chief Inspector.

52. Any certificate, permit or authorisation specified in the first column of the table below which has been issued under the Indian Mines Act, 1901, or under any rule made thereunder and

is valid at the commencement of these regulations shall for the purposes of the Act and these regulations be deemed respectively to be equivalent of the certificate, permit or authorisation specified in the corresponding entry in the second column of the table and to have been issued under these regulations

Manager's certificate of competency, First class .. .	} Manager's certificate, First class
Manager's service certificate of competency, First class .. .	
Manager's certificate of competency, Second class	} Manager's certificate, Second class.
Manager's service certificate of competency, Second class	
Sirdar's certificate of competency	Sirdar's certificate.
Permit to manage a mine	Manager's permit.
Authorisation to act as Manager of a mine ..	Authorisation to act as Manager of a mine

CHAPTER V.

SHAFTS AND OUTLETS.

53. (1) No person shall be employed, or be permitted to enter or remain for purposes of employment, in any mine, unless the mine is provided with at least two shafts or outlets—

(a) with which every seam for the time being at work has a communication so as to afford separate means of ingress and egress to the persons employed in seam ; and

(b) which are under the sole control of the manager of the mine.

(2) Proper arrangements shall be made for persons to descend to, and ascend from, the mine at each of such shafts or outlets. If apparatus is necessary, it shall be kept on the works belonging to the mine, and shall be constantly available for use.

(3) Such shafts or outlets shall be not less than 45 feet distant from one another at any point, and each shall be connected with the other by means of a communication not less than 4 feet high and 4 feet wide.

(4) Whenever communication between the two outlets which are required to be maintained under sub-regulation (1) has been blocked,

or fenced off under regulation 140 (1), only such persons as are necessary to clear the obstruction, or to repair the dangerous part of the communication or to make a new second outlet, shall be employed in the mine until such time as communication has been re-established or a new second outlet has been provided

(5) The foregoing provisions of this regulation with respect to shafts and outlets shall not apply—

- (i) while a shaft is being sunk or an outlet is being made,
- (ii) to any working for the purpose of making communication between two or more shafts or outlets
- (iii) to any working for the sole purpose of searching for or proving minerals,

so long as not more than 40 persons are employed underground at any one time in the whole of the different seams in connection with a single shaft or outlet :

Provided that nothing in this sub-regulation shall be deemed to authorise the driving of ordinary galleries for development before a second outlet has been made in accordance with the said provisions.

(6) The Chief Inspector may exempt from the operation of this regulation, subject to such conditions as he may impose, any mine in the case of which special difficulties exist which in his opinion make compliance with the provisions of this regulation not reasonably practicable.

(7) So much of this regulation as requires two shafts or outlets to be separated by a distance of not less than 45 feet shall not apply to any shafts the sinking of which was commenced before the 10th day of March, 1904.

54. Where the natural strata are not safe, every working or pumping shaft and every shaft in course of being sunk, shall be securely cased, lined or otherwise made secure.

55. Every part of a mine shall, where practicable, be provided with at least two ways affording means of egress to the surface

56. Where it is necessary for persons to pass from one side of a winding shaft to the other, proper provision shall be made enabling them to do so without crossing the shaft.

57. A competent person or persons, of not less than 21 years of age, appointed by the manager for the purpose shall, once at least in every week, examine the state of the shafts by which persons ascend or descend, and shall without delay write or cause to be written a full and accurate report of the result of such examination.

Every such report shall be recorded in a paged book to be kept at the mine for the purpose, and shall be signed and dated by the person who made the examination.

CHAPTER VI

RAISING AND LOWERING PERSONS OR MATERIALS

58. At every shaft or incline where persons or materials are lowered or raised by means of machinery the following provisions shall have effect, namely :—

- (a) A single linked chain shall not be used for lowering or raising persons, except for the short coupling chain attached to a cage, skip, bucket or tub.
- (b) Where the apparatus ordinarily used for raising and lowering persons to or from the surface is worked by mechanical power, it shall, if the shaft is vertical and exceeds 150 feet in depth, be provided with a detaching hook. The space between the detaching hook and the detaching plate when the cage is at normal position at the top of the shaft shall not be less than 6 feet where a geared winding engine is used, and not less than 12 feet where a direct acting engine is used.
- (c) There shall be attached to every machine worked by mechanical power, and used for raising and lowering persons, one or more brakes of sufficient power by themselves to hold the cage, skip, bucket or tub, when loaded, at any point in the shaft, and a proper indicator (in addition to any mark on the rope) showing to the person who works the machine the position of the cage, skip, bucket or tub in the shaft ; and, if the drum is not on the crank shaft, there shall be an adequate brake on the drum shaft :

Provided that in the case of a shaft not exceeding 100 feet in depth so much of this clause as requires an indicator shall not apply.

- (d) Every apparatus on or in which persons ride in a working shaft, shall be provided with a sufficient cover overhead, except—

- (1) in a shaft not exceeding 150 feet in depth where buckets or other appliances are used for winding, or

- (ii) in a shaft in course of sinking, or
- (iii) where persons are employed at work in a shaft.
- (c) Every working shaft used for the purpose of drawing mineral or for lowering or raising persons shall, if exceeding 150 feet in depth, be provided with proper means of communicating distinct and definite signals from the bottom of the shaft, and from every entrance for the time being in use between the surface and the bottom of the shaft, to the surface, and from the surface to the bottom of the shaft and to every entrance for the time being in use between the surface and the bottom of the shaft. There shall also be proper means of transmitting distinct and definite signals from the top of every winding shaft to the winding engine. All signals shall be transmitted by mechanical or electrical means.
- (f) (i) The first three or principal signals shall be—

One rap	.. ..	RAISE	when engine at rest
One rap	.. ..	STOP	when engine in motion
Two raps	.. .	LOWER	
Three raps	.. ..	MEN	ready to ascend or descend
Three raps	.. ..	IN REPLY	Men may enter the cage or other conveyance

- (ii) Any other signals shall be in addition to, and shall not interfere with, the foregoing.
- (iii) A printed copy of the code of shaft signals shall be posted at the shaft top, and at every inset, and also at the winding engine.
- (iv) No person other than the banksman or onsetter shall give any signal unless he is an official of the mine or is authorised in writing by the manager to give signals.
- (g) Every working shaft (except a shaft in course of sinking) used for lowering or raising persons shall, if it exceeds 150 feet in depth, be provided with guides.
- (h) At the bottom of every working shaft in which a cage is used, protective roofing shall be provided sufficient to prevent danger from anything falling in the shaft.
- (i) Adequate stationary lights shall be provided and used during working hours—
 - (1) at all places where persons have to work underground in the immediate vicinity of shafts, and

- (2) after dark at the tops of all working shafts and at all winding engines used for raising and lowering persons and in particular at all such engines, where electric lighting is used, an additional light having no connection with the electric supply shall be kept burning at night
- (j) There shall be on the drum of every machine used for lowering or raising persons such flanges, horns or other appliances as may be sufficient to prevent the rope from slipping. The rope shall be securely fastened round an arm or the shaft of the drum, and there shall be at least two turns of the rope on the drum when the cage, skip, bucket or tub is at the bottom of the shaft. After any stoppage of winding for more than two hours, the cage, skip, bucket or tub shall, before any person is allowed to ride therein, be run a complete trip up and down the working portion of the shaft at least once, to ensure that everything is in good working order.
- (k) Every cage shall be provided with catches, or some other suitable contrivance to prevent tubs from falling out, shall, if used for lowering or raising persons, be covered in completely at the top and closed in at the two sides in a manner sufficient to prevent persons or things from projecting beyond the sides and shall be provided with suitable gates or other rigid fences and with a rigid hand bar fixed in a position where it can be easily reached by all persons in the cage.
- (l) A competent person or persons, of not less than 21 years of age, appointed by the manager for the purpose shall, once at least in every 24 hours, examine the state of the external parts of the machinery and of the head-gear, ropes, chains, cages, guides, and conductors in the shafts and other similar appliances of the mine which are in actual use, both underground and above ground, and shall without delay write or cause to be written a full and accurate report of the result of such examination. Every such report shall be recorded in a paged book to be kept at the mine for the purpose, and shall be signed and dated by the person who made the examination.

59. No person shall get on or off a cage, skip, tub or bucket used for lowering or raising persons after the same has been set in motion, or leave it until it has reached the appointed stopping place, nor shall any person ride on the top or edge of any cage, skip, tub or bucket except when engaged upon special work in the shaft

60. No person, when ascending or descending a shaft, shall take with him any tools or other bulky materials, save when engaged in repairing the shaft or when otherwise specially authorised by the manager :

Provided that, in the case of tools only, the manager may, by general order permit the same to be carried.

61. No person shall ride in a shaft on, or against, a loaded cage, skip, tub or bucket.

62. Every person, when at or about the top or the bottom of a shaft, shall obey the orders and directions of the shaft attendants on duty at the time.

63. Not more than such number of persons as may be authorised by the manager shall be allowed to ride in the same cage, tub, skip or bucket at one time, and a notice specifying the authorised number shall be posted at the top of every shaft and at every inset in a shaft

64. No persons under 18 years of age and no woman shall descend or ascend a shaft in a cage, tub, skip or bucket unless accompanied by at least one person over 18 years of age.

65. When the winding apparatus is not provided with some automatic contrivance to prevent overwinding, a point shall be fixed and marked on the indicator in such a way as to show when the cage or other conveyance is within a distance of twice the circumference of the drum from the completion of the wind ; and when such cage or conveyance has reached such distance it shall not, if either it or the descending cage contains persons, be raised for the remaining distance at a speed exceeding three miles per hour.

66. (1) All cage chains in general use shall be annealed and all detaching hooks shall be cleaned and refitted, and all winding ropes shall be re-capped, once at least in every six months, or, if necessary, at shorter intervals.

(2) The date of each such operation shall be recorded in a book kept at the mine for the purpose.

CHAPTER VII

ROADS AND WORKING PLACES

67. The roofs and sides of all working places and travelling roads, including airways and travelling roads to second outlets, shall be made and kept secure.

68. (1) In any mine or part of a mine where the roof is of such a nature as to require artificial support, an Inspector, after consultation with the manager, may require such support to be systematic, and may give notice to that effect to the manager, who shall, by notices posted in conspicuous places at the mine, specify the manner in which supports are to be set and advanced and the maximum intervals—

- (a) between each row of props,
- (b) between adjacent props in the same row,
- (c) between the front row of props and the face, and
- (d) between chocks or cogs.

(2) The manager and his subordinate staff shall be responsible for securing effective compliance with the terms of the notices and no such mine or part of a mine shall be worked in contravention of these terms.

69. (1) In open workings the overburden and all loose ground and material shall be removed sufficiently far from the edge, or otherwise made secure, in such a manner as to prevent danger to persons employed in the mine.

(2) The sides of open workings shall be sloped, stepped or secured, in such a manner as to prevent danger from falls of material.

(3) When an open working is worked in steps, the steps shall be of sufficient breadth in comparison with their height to secure safety.

69A. Every footpath along which loads are carried in open workings by human agency shall comply with the following requirements—

- (a) its breadth shall not be less than three feet ;
- (b) its slope shall not be greater than 1 vertical to 2 horizontal ;
- (c) at every place where its slope exceeds 1 vertical to 4 horizontal reasonably level steps shall be provided such that the vertical height of every step does not exceed seven inches and the dimension of every step measured

horizontally from the edge to the back is not less than fourteen inches.

Explanation —Gang-planks used for loading wagons shall not be deemed to be part of a footpath for the purposes of this regulation; provided that every gang-plank shall be so inclined or constructed as to give a secure foothold.

69B. Where women are employed in carrying loads, the weight of the loads and the height and distance to which they have to be carried shall not be such as to involve risk of injury to the health of the women. If any dispute arises as to whether risk of injury to health is involved, the decision of the Chief Inspector shall be final.

70. (1) For the purposes of inspections before the commencement of a period of work constituting a shift at a mine, one or more stations shall be fixed by the manager at the entrance to the mine or to different parts of the mine, as the case may require, and no workman shall pass beyond any such station until the part of the mine beyond that station has been examined and reported to be safe in the manner hereinafter provided.

(2) A competent person or persons, having the prescribed qualifications and appointed by the manager, shall within such time, not exceeding two hours before the commencement of work in a shift, as may be fixed by the bye-laws of the mine inspect every part of the mine situated beyond the station or each of the stations fixed by the manager, in which work-persons are to work or pass during the shift, and all working places in which work is temporarily stopped and the edges of all goaves within any ventilating district in which persons have to work, and shall ascertain the condition thereof so far as the presence of gas, ventilation, roof and sides and general safety are concerned. The result of every such inspection shall be recorded in a book kept at the mine for the purpose.

(3) A like inspection shall be made at least twice in the course of each shift, and at least once in every five hours during which the shift continues, of all parts of the mine which are situated beyond the station or each of the stations aforesaid and in which work-persons have to work or which they have to traverse during that shift, but it shall not be necessary to record the result of such inspections in a book unless the last inspection in a shift is the inspection required to be made under sub-regulation. (2).

(4) The inspection shall be made with an approved locked flame safety lamp and no additional light shall be used other than an approved electric torch or lamp.

Provided that in the case of a mine in which inflammable gas has never been found and is unlikely to be found, the inspection, except in the region of an underground fire or of any stoppings made to control a fire, may be made with any electric torch or lamp if it used in conjunction with an open light or an approved locked flame safety lamp.

(4A) In any inspection in the region of an underground fire, or of any stoppings made to control a fire, a cage containing small birds or other means of detecting carbon monoxide gas approved by the Chief Inspector shall be carried.

(5) Every report referred to in sub-regulation (2) shall be made by the person inspecting, either when underground or immediately on his return to the surface, and shall be a full and accurate report of the inspection, specifying whether or not, and where, if anywhere, noxious or inflammable gas was found, and whether or not any and, if any, what defects in roof or sides and other sources of danger were observed. The report shall be signed by the person who made the inspection and shall state the date and time of the inspection and the date and time when the report was written.

(6) The part of a mine or mines assigned to a competent person under this regulation shall not be of such a size, nor shall any duties which may be assigned to him other than his duties under this regulation be such, as to be likely to prevent him from carrying out such last-mentioned duties in a thorough manner. If any question arises whether the part of a mine or mines assigned to any such person is too large or whether the additional duties assigned to him are too great, the decision of the Chief Inspector shall be final.

(7) A competent person or persons appointed by the manager shall inspect all airways and travelling roads leading to second outlets at least once a fortnight, and shall record the result of his inspection in a book kept at the mine for the purpose.

70A. (1) The first inspection of a mine or part of a mine which is re-opened after a discontinuance of mining for a period exceeding seven days and of any part of a mine after being dewatered, shall be made by a person possessing the qualifications prescribed in sub-regulation (1) of regulation 71 with an approved locked flame safety lamp.

(2) No additional light shall be used in any such inspection other than an approved electric torch or lamp

(3) The result of every such inspection shall be reported by the person making it in the manner required by sub-regulation (5) of regulation 70 and shall be recorded in the book maintained in accordance with sub-regulation (2) of regulation 70

70B. (1) In any mine in which inflammable gas has been found during the previous twelve months, all unused workings in which inflammable gas may accumulate and which are not permanently sealed off, shall, at least once in every week, be inspected for the presence of inflammable gas, by the competent person appointed under regulation 70.

(2) The inspection shall be made with an approved locked flame safety lamp, and no additional light shall be used, other than an approved electric torch or lamp.

(3) The result of every such inspection shall be reported by the person making it in the manner required by sub-regulation (5) of regulation 70 and shall be recorded in the book maintained in accordance with sub-regulation (2) of that regulation.

(4) Nothing in this regulation shall be construed to affect the provisions of regulation 70

70C. *At every sealed off fire area in any mine and at every goaf or area of old workings isolated by stoppings in any mine in which safety lamps are required to be used in compliance with regulation 123, arrangements shall be made to ascertain from time to time atmospheric conditions behind the stoppings.*

Provided that this regulation shall not apply—

- (a) to an area in a mine which is isolated by stoppings capable of resisting the force of an explosion, or*
- (b) to any mine or part of a mine where in the opinion of the Chief Inspector special difficulties exist which make compliance with the provisions of this regulation not reasonably practicable.*

71. (1) No person shall, save as hereinafter provided, be appointed to make any inspection required by regulation 70 unless he—

- (i) has within the preceding five years obtained a certificate from an authority and in a form to be prescribed by the Board of Examiners constituted under these regu-*

lations to be effect that his powers of eye-sight and hearing are such as to enable him to make the inspection efficiently, and

- (u) holds a manager's or a sirdar's certificate or a manager's permit or is for the time being authorised under sub-regulation (1) or regulation 24 to act as manager of the mine in which the inspection is to be made

Provided that the holder of a sirdar's certificate shall not be appointed to make any such inspection in a mine in which safety lamps are used or in which inflammable gas is likely to occur, unless his certificate bears an endorsement to the effect that he is competent to test for and detect the presence of inflammable gas.

(2) A fee of one rupee payable in the manner prescribed in regulation 153 shall be chargeable from every person whose eyesight and hearing are examined for the purpose of enabling the grant to him of a certificate of adequate eyesight and hearing referred to in clause (1) of sub-regulation (1), unless such examination is made in the course of an examination held under regulation 40

(3) Where an emergency exists, the manager of a mine may appoint to make the inspection required by regulation 70 any person who, in his opinion, is competent to make such inspection, notwithstanding the fact that such person does not possess the qualifications prescribed in sub-regulation (1) :

Provided that such appointment shall not extend over a period exceeding one month.

Provided further that every such appointment and the reasons therefore shall forthwith be reported to the Chief Inspector. The Chief Inspector may cancel any appointment so made, and such cancellation shall be final.

72. (1) If at any time it is found by the person for the time being in charge of a mine or any part thereof that, by reason of any cause whatever, the mine or part is dangerous, every workman shall be withdrawn from the mine or part, and a competent person appointed by the manager for the purpose shall inspect the mine or part.

(2) The person so appointed shall make a full and accurate report of the condition of the mine or part and no workman shall, except in so far as is necessary for enquiring into the cause of the danger or for the removal thereof or for exploration be re-admitted

into the mine or part, until the mine or part is reported by the person so appointed not to be dangerous.

(3) Every report made under sub-regulation (2) shall be recorded without delay in a paged book, which shall be kept at the mine for the purpose, and shall be dated and signed by the person who made the inspection

Provided that—

(i) where the danger arises from the presence of inflammable or noxious gas, the provisions of regulation 72A shall be followed ;

(ii) where the appearance in any part of a mine of smoke or other sign indicates that a fire has or may have broken out, the provisions of regulation 87F shall be followed.

72A. (1) When inflammable gas or any noxious gas is detected in any working place or any part of a mine, all persons shall be withdrawn from the place or part, and the place or part shall be immediately fenced off so as to prevent persons inadvertently entering the same. The official in charge of the district in which the gas has been detected shall take steps, without delay, to remove the gas by improving the ventilation and shall also send a report of the occurrence to the manager

(2) During the removal of such gas no naked light shall be used in the ventilating district in which the gas is detected and all persons, except those necessary for such removal, shall be withdrawn from the return side of the ventilating district unless the quantity of gas is, in the opinion of the manager or other responsible official in charge of the mine in the manager's absence, so small that such withdrawal of persons is unnecessary.

(3) No workman shall be re-admitted into the place or part referred to in sub-regulation (1) until a competent person appointed by the manager for the purpose has inspected the place or part and has reported that the place or part is free from gas. Every such report shall be in writing and shall be dated and signed by the person who made the report.

(4) The inspection required by sub-regulation (3) shall be made with an approved locked flame safety lamp and, in the case of noxious gas, also with a cage containing small birds or other means of detecting carbon monoxide gas approved by the Chief Inspector.

(5) Particulars of every occurrence referred to in sub-regulation (1) and every report submitted under sub-regulation (3) shall be

recorded in a paged book, which shall be kept at the mine for the purpose, and it shall be stated in the book where and when the gas was found and when it was removed

72B. (1) No coal shall be extracted from any spot which lies vertically below—

- (a) any part of the bed of any river, tank or reservoir, or
- (b) any spot lying within a horizontal distance of 50 feet from either bank of a river or the boundary of a tank or reservoir,

except with the written permission of the Chief Inspector and subject to such conditions as he may specify.

(2) For the purposes of this regulation, where sand or alluvium are lying in the course of a river, or in a tank or reservoir the bed of the river, tank or reservoir at that point shall be deemed to coincide with the surface of the hard strata underlying such sand or alluvium.

73. Where any part of a mine is so situated that there is any danger of irruption of surface water into the mine adequate protection against such an irruption shall be provided and maintained

74. Where any working has approached within 100 feet of any place containing or likely to contain an accumulation of water or other liquid matter, or within 100 feet of disused working (not being workings which have been examined and found to be free from accumulation of water or other liquid matter) the working shall not exceed eight feet in width or height, and there shall be maintained at least one bore-hole near the centre of the working face, and sufficient flank bore-holes on each side, and where necessary, bore-holes above and below the working, at intervals of not more than 15 feet. All such bore-holes shall be and shall be constantly maintained at sufficient distance in advance of the working and such distance shall in no case be less than 10 feet.

75. Where work is being done in any seam or part of a seam below another seam or part of a seam which contains or may contain an accumulation of water, or where work is being done in an upper seam or part of an upper seam which is at a lower level than any part of a lower seam which contains or may contain an accumulation of water, adequate precautions shall be taken against such an irruption of water into the seam where work is being done as would be likely to endanger the lives of the workmen in the mine.

75A. When the owner, agent or manager of a mine intends or proposes by introducing water from the surface, or from any other part of the mine or from an adjacent mine, to flood any part of the workings of his mine he shall give in writing not less than seven days' notice of his intention to commence such operations to the Chief Inspector and to the management of all adjacent mines and such other mines as might be affected by such flooding.

Provided that the Chief Inspector may by order in writing—

- (a) permit such operations to be commenced on any day prior to the expiry of seven days from the receipt of notice, or
- (b) require that such operations shall not be commenced until after the expiry of such time, not exceeding twenty days, from the receipt of notice as he may specify in this behalf

75B. If the operations in respect of which notice is given under regulation 75A are not commenced within sixty days from the expiry of the period of notice of seven days therein referred to, the notice shall be deemed to have lapsed and the provisions of that regulation shall apply as if no such notice had been given.

76. (1) No working shall be made within a distance of 25 feet of the boundary of any mine property, or, in the case of a disputed boundary, within a distance of 25 feet of the boundary claimed by the owner of an adjacent mine until such time as a binding agreement has been reached as to the correct boundary or the question has been finally determined by a court of law

(2) Notwithstanding anything contained in sub-regulation (1) the Chief Inspector may, by order in writing, permit the working of any mine or part of a mine to extend to within any shorter distance than 25 feet of the boundary of the mine, or may require that the working of any mine or part of a mine shall not extend further than any specified distance, not exceeding 100 feet, of such boundary.

(3) The owner of any mine affected or likely to be affected by any order passed by the Chief Inspector under sub-regulation (2) may prefer an appeal to the Mining Board constituted under section 10 of the Act, or, if no Mining Board has been so constituted for the part of the Provinces in which the mine or part of a mine is situated to the Central Government, and the order of the Mining Board or of the Central Government thereon shall be final.

(4) *Where the working of two adjacent mines have each approach to within a distance of 100 feet of the respective boundary*

or boundaries of each mine property, or, in the case of a disputed boundary, within a distance of 100 feet of the boundary claimed by the owner of the adjacent mine, the owners of the two mines shall make a joint survey of the workings on either side of the common barrier and a copy of the plan showing the workings up to a date within six months shall be kept in the office at each of the mines

77. (1) The dimensions of pillars and galleries and the shape of pillars formed in any seam shall be such as to ensure stability during the formation of pillars, during the extraction of pillars, and during the period between such formation and extraction

(2) Save with the previous permission in writing of an Inspector, no gallery in a seam shall exceed 10 feet in height or 16 feet in width.

(3) Where the "pillar and stall" system of working is adopted the pillars formed in any seam shall normally be rectangular in shape

(4) The distance between the centres of any two adjacent pillars left in a seam shall not be less than that specified in the appended table as corresponding to the depth of the seam from the surface and the average width of the galleries in the workings in question

Depth of seam from surface.	Where the average width of the galleries does not exceed 10 feet, the distance between centres of adjacent pillars shall not be less than—	Where the average width of the galleries does not exceed 12 feet, the distance between centres of adjacent pillars shall not be less than—	Where the average width of the galleries does not exceed 14 feet, the distance between centres of adjacent pillars shall not be less than—	Where the average width of the galleries does not exceed 16 feet, the distance between centres of adjacent pillars shall not be less than—
	Feet	Feet	Feet	Feet
Not exceeding 200 feet	40	50	60	65
Exceeding 200, but not exceeding 300 feet	45	55	65	70
Exceeding 300, but not exceeding 500 feet.	55	65	75	85
Exceeding 500, but not exceeding 800 feet	75	85	100	115
Exceeding 800 feet.	95	115	130	150

Provided that the Chief Inspector may, in the case of any particular seam or mine, by order in writing and subject to such conditions as he may specify, vary the distances specified in the said table

(5) Nothing in sub-regulations (2), (3) and (4) shall apply to workings in a mine made before the coming into force of this regulation. In such workings the following provisions shall apply, except in depillaring operations.—

- (a) if the distances between the centres of adjacent pillars are smaller than those specified in the table appended to sub-regulation (4), the pillars shall not be further reduced,
- (b) If the distances between the centres of adjacent pillars are not smaller than those specified in the table appended to sub-regulation (4), the pillar shall not be so reduced as to render those distances smaller than—
 - (i) the distances so specified, or
 - (ii) any distance required in this behalf by the Chief Inspector ;
- (c) if the height or width of a gallery exceeds the figure specified in sub-regulation (2), the dimensions of the gallery shall not be further increased without the permission in writing of an Inspector ; and
- (d) if the height or width of a gallery is less than the figure specified in sub-regulation (2) it may be increased only to the extent so specified or to such extent as may be permitted by an Inspector in writing.

(6) In the case of all workings, where in the opinion of an Inspector the dimensions of pillars or galleries are such as to render it likely that crushing of pillars or the premature collapse of any part of the workings will occur either before or during the extraction of pillars, he may, by order in writing, require such modification of those dimensions in respect of any future working as he shall specify

78. (1) The extraction of pillars shall be conducted in such a way as to prevent as far as possible the extension of a collapse or subsidence of the goaf over pillars which have not been extracted. Adequate timber or other supports shall be used where necessary.

(2) Save as provided by sub-regulation (3), no pillars shall be reduced or split in such a manner as to reduce the dimensions of

the resultant pillars below those required by regulation 77 or by any order passed thereunder, nor shall any gallery be so heightened as to exceed the height required by or under that regulation

(3) During the systematic extraction of pillars no "splitting" or reduction of pillars or the heightening of galleries shall be effected for a greater distance than the length of two pillars ahead of the pillar that is being extracted or from the point at which pillar extraction is about to begin.

(4) An Inspector may by order in writing relax the provisions of sub-regulations (2) and (3) in respect of any specified workings to such extent and on such conditions as he may specify in the order.

78A. Nothing in regulation 77 or regulation 78 shall prevent the driving of any gallery through any pillar or the enlargement of any gallery beyond the limits prescribed by or under these regulations when in the opinion of the manager such work is necessary for haulage, ventilation, drainage or any other purpose necessary for the proper working of the mine, if a week's previous notice of the intention to undertake such work has been sent to the Inspector.

78B. Whenever "crush" of pillars or any symptoms of impending collapse other than that ordinarily caused by pillar extraction is detected, the owner, agent or manager of the mine shall inform the Chief Inspector forthwith.

79. Where the method of extraction is to remove all the coal, or as much of the coal as is practicable and allow the roof to fall in, operations shall be conducted in such a way as to leave as small an area of uncollapsed roof and, where practicable, means shall be taken to bring down the roof at regular intervals.

80. (1) In any mine in which two or more seams or sections of a seam are close to each other, the pillars in the one seam or section shall, where the strata are not highly inclined, be, as far as practicable, vertically above or below the pillars in the other seam or section.

(2) No work in a higher seam or section shall be done over an area in a lower seam or section which may collapse unexpectedly.

(3) No seam in a mine shall be worked in more than one section without the permission in writing of the Chief Inspector and under such conditions for ensuring the stability and safety of the workings as he may specify.

(4) Every application for permission under sub-regulation (3) shall be accompanied by a plan showing the proposed layout of the workings, the thickness of the seam, the depth of the seam from the surface, the rate and direction of dip, the dimensions of pillars and galleries in each section and the thickness of the parting between the sections

(5) Where a seam in a mine is worked in two or more sections every such section shall be deemed to form a separate seam and the parting left between any two such sections or between the workings made in any two seams in a mine which are close to each other, shall not be less than 10 feet in thickness

Provided that an Inspector may by order in writing—

- (a) permit a smaller thickness of parting, if he is of opinion that the stability of the workings will not be affected thereby, or
- (b) require a greater thickness of parting, if he is of opinion that such greater thickness is necessary for the safety of the workings.

80A. If in any mine it appears to an Inspector authorised in this behalf in writing by the Chief Inspector that the provisions of regulation 77, regulation 78 or regulation 80 or of any order issued under any of those regulations have not been complied with, he may give notice in writing to the owner, agent or manager of the mine requiring him to take such protective measures, within such reasonable time, as he may specify in the notice ; and in case of non-compliance, the Inspector may, by order in writing addressed to the person to whom the notice was given, prohibit the extraction of coal in the part or parts of the mine in which protective measures are required to be taken until the requirements specified in the notice are complied with to his satisfaction.

81. (1) Proper provision shall be made in every mine to prevent—

- (a) an outbreak of fire in the mine or the spread of fire to the mine from any mine adjacent to it,
- (b) inundation by water from a neighbouring mine, and
- (c) the premature collapse of workings,

and adequate steps shall be taken to isolate, control or remedy, as the case may require, any such outbreak, inundation or collapse which may occur.

(2) Where, in the opinion of an Inspector, the provision made or steps taken for the purposes specified in sub-regulations (1) are inadequate, he may require such additional provision or steps as he shall specify to be made or taken

82. (1) An appeal against any order passed by an Inspector under any of the following regulations, namely, regulations 68, 77, 78, 80, 80A and 81, may be preferred to the Chief Inspector and the order of the Chief Inspector thereon shall, save as otherwise provided in sub-regulation (2), be final

(2) An appeal against any order passed by the Chief Inspector—

(a) under sub-regulations (4) and (5) of regulation 77 or sub-regulation (3) of regulation 80 ; or

(b) on appeal under sub-regulation (1) of this regulation against any order of an Inspector passed under regulations 77, 78, 80 and 80A.

may be preferred to the Central Government, which shall refer the same to a Committee constituted in the manner laid down in sub-sections (1) and (2) of section 11 of the Act.

(3) The procedure laid down in sub-sections (3), (4) and (5) of section 11 of the Act shall apply to a reference made to a Committee under sub-regulation (2)

(4) Every order against which an appeal is preferred under sub-regulation (2) shall be complied with pending the receipt at the mine of the decision of the Committee.

Provided that the Committee may, on the application of the appellant, suspend the operation of the order appealed against pending the disposal of the appeal

83. Every person shall examine his own working place before commencing work, and also at intervals during the shift. If any dangerous condition is observed by him he shall either remedy it or immediately leave the place and report the fact to an official of the mine, who shall deal with the matter without delay.

84. (1) No person shall work in any place in which he has not been ordered to work either by an official of the mine or by a person authorised in this behalf by an official of the mine.

(2) No person shall cut coal from any pillar, roof or floor unless specially so authorised by the manager, or other person qualified under the provisions of regulation 71 to make an inspection required by regulation 70.

85. After an explosion of fire-damp or coal dust in a mine only such persons as are authorised by the manager or an official appointed by the manager for the purpose or, in the absence of the manager or such official, by the principal official of the mine present at the surface, shall be allowed to enter the mine

86. Where rescue or recovery work is being undertaken in a mine or part of a mine likely to contain an irrespirable atmosphere, no party of less than three shall be allowed to enter.

CHAPTER VIIIA

SPECIAL PRECAUTIONS AGAINST SPONTANEOUS COMBUSTION AND UNDERGROUND FIRES

87. In any mine in which an underground fire exists, whether such fire has been sealed off by means of stoppings of non-inflammable material or not or in which an explosion of fire damp or coal dust is likely to occur, there shall be kept at the mine constantly available for use two or more small birds *or other means approved by the Chief Inspector of detecting carbon monoxide gas* and two or more *approved locked flame safety lamps* for the purpose of testing for inflammable and other gases

Provided that the Chief Inspector or an Inspector may require compliance with this regulation in the case of any other mine if he thinks that the circumstances of the mine are such as to require it.

87A. (1) All surface structures and supports within a horizontal distance of 25 feet from the perimeter of shafts and the covering of all shafts sealed off or covered for ventilation purposes, and all fan drifts, fan casings and parts of fans within such drifts or casings, shall be of non-inflammable material

Provided that this sub-regulation shall not apply to—

- (a) structures and supports and the covering of shafts, if they are so protected by non-inflammable material as to eliminate the risk of fire ;
- (b) the small lid or covering of a shaft covering operated by the rope cappel ; and
- (c) temporary structures, supports and coverings at the top of shafts which are in the course of being sunk :

Provided further that until 30th April 1940 this sub-regulation shall not apply to wooden headgears which were in use on the date on which the sub-regulation came into force.

(2) All air-crossings in main intake or main return airways and all ventilation or separation doors in any fan house or fan drift and in the vicinity of shaft bottoms or air-crossings in main intake or main return airways shall be constructed of non-inflammable material and shall be designed, as far as practicable, to prevent leakage.

(3) No timber or other inflammable material shall be used in the construction of or in connection with any underground engine-house or electrical sub-station, switch house or motor room.

87B. No oil grease, canvas, or other highly inflammable material shall be stored underground in any mine except in a fire-proof receptacle or chamber

87C. (1) Adequate means of extinguishing fire shall be provided at any part of a mine where timber, grease or other inflammable material is stored and at all insets where timber is used for the construction of the staging and at every pithead, pit-bottom, engine-room and electrical apparatus room.

(2) In every mine in which there are water mains or other pipes containing water under pressure, an adequate number of taps shall be provided on such mains or pipes. Hose pipe not less than 200 feet in length with the necessary fittings shall be kept readily available in the mine and the distance between two adjacent taps shall not exceed the length of the hose pipe

(3) *In mines or parts of mines where in the opinion of the Chief Inspector arrangements for extinguishing a fire cannot reasonably be provided under sub-regulation (2), one or more of the following means shall be adopted—*

(a) portable fire extinguishers shall be provided and kept readily available and in good condition at suitable places underground, or

(b) portable water tanks fitted with hand pressure pumps and an adequate length of hose piping shall be provided; or

(c) adequate supplies of sand or incombustible dust shall be kept available at suitable places underground.

(4) A competent person appointed in writing by manager for the purpose shall examine each portable fire extinguisher provided under sub-regulation (3) at intervals not exceeding three months, and the result of each such examination shall be recorded in a book kept at the mine for the purpose.

(5) Water shall not be used for putting out electrical or oil fires.

87D. (1) No person shall light a fire or deposit ashes or heated material in any coal quarry, or on any exposed outcrop of coal, or on any ground damaged by the extraction of coal in which open fissures or cavities exist

(2) No person shall light a fire or permit a fire to be lighted in any underground part of a mine

Provided that nothing in this sub-regulation shall apply to the use in a mine to which regulation 123 does not apply, of blow lamps or electric repairing apparatus if permitted by a special written order granted by the manager of the mine. The order shall specify the person who shall be in charge of the blow lamp or apparatus and shall require such person to bring it back to the surface when no longer required.

(3) No person shall light a fire or permit a fire to be lighted within a distance of 40 feet from the perimeter of any shaft except in accordance with a written order granted by the manager of the mine and only for a special purpose specified in such order

Provided that this sub-regulation shall not apply to boilers other than vertical boilers

(4) All such orders shall be recorded in a paged book kept in the office of the mine

(5) No person shall ignite a "feeder" or an accumulation of gas.

87E. No excavation shall be done in any part of a seam lying under any part of another seam which is on fire or is believed to be on fire or which is connected by a goaf or by broken strata to any fire except by a method which will maintain the strata between the seams *in situ* and intact.

87F. (1) On the appearance in any part of a mine of smoke or other sign indicating that a fire has or may have broken out all workmen other than those whose presence in the mine is deemed necessary for dealing with the emergency shall be immediately withdrawn from the mine. No workmen, other than the men required for dealing with or damming off the fire, shall be re-admitted until either the fire has been extinguished or the part in which it exists has been effectively dammed off and an examination has been made by the manager and the competent person appointed under regulation 72 and the mine has been reported to be safe. Every such report shall be recorded without delay in a paged book, which shall be kept

at the mine for the purpose and shall be dated and signed by the manager and the competent person who made the inspection

Provided that, in a mechanically ventilated mine in which the use of safety lamps is not required other than for inspection purposes, this regulation shall apply only to the ventilating district or districts, that may be affected

(2) The examination required by sub-regulation (1) shall be made with an approved locked flame safety lamp and a cage containing small birds or other means of detecting carbon monoxide gas approved by the Chief Inspector. No additional light shall be used other than an approved electric torch or lamp.

87G. (1) Approved locked safety lamps or electric torches shall be exclusively used in the work of dealing with or damming off an underground fire

Provided that where in the opinion of the manager, it is necessary to take immediate steps to deal with an outbreak of fire, the provisions of this sub-regulation shall be deemed to have been complied with if the workmen engaged in dealing with the fire are provided with approved safety lamps or electric torches as quickly as is reasonably practicable

(2) During the work of dealing with or damming off an underground fire a cage or cages containing small birds or other means of detecting carbon monoxide gas approved by the Chief Inspector shall be kept at all places in which persons may be in danger from noxious gases

87H. Approved locked safety lamps or electric torches shall be exclusively used in any ventilating district of a mine in which there is an underground fire whether such fire is sealed off by stoppings or not.

Provided that the Chief Inspector may in the case of any mine, grant exemption from this regulation under such conditions as he may impose, if, in his opinion, the use of approved safety lamps or electric torches in such mine is not necessary.

87I. (1) In any ventilating district of a mine which is not naturally wet throughout and—

- (i) in which there is underground fire, whether sealed off or not ; or
- (ii) in which the extraction of pillars is in hand or is about to commence ;

the following precautions with respect to danger from dry coal dust shall be taken —

- (a) All haulage and tramming roads shall be systematically kept clear of accumulations of dry coal dust.
- (b) All such roads shall be systematically treated with water or incombustible dust in such a manner as to prevent an explosion from being initiated or propagated by coal dust. If incombustible dust is used for the purpose, it shall be of a kind which is not likely to be injurious to the health of workmen.

(2) The precaution laid down in sub-regulation (1) shall also be observed at all places within 400 feet of an area—

- (i) which has been or is being sealed off on account of fire ; or
- (ii) in which pillars are being extracted

(3) The Chief Inspector may, by order in writing, grant, subject to such conditions as he may impose, exemption from the provisions of sub-regulation (1) or sub-regulation (2) to any mine or part of a mine on the ground that, on account of the special character of the mine or part, the observance of the precautions laid down therein is not necessary.

87J. In any working mine in which a fire is known or is believed to exist—

- (a) adequate precautions shall be taken to prevent the passage of air from the mine through any goaf or through broken strata connected with the fire ; and
- (b) no work, other than work required by clause (a) of this regulation, shall be done in any part of the mine which is not effectively sealed off from any such goaf or broken strata.

CHAPTER VIII.

HAULAGE.

88. (1) Every haulage road on which the haulage is worked by gravity or mechanical power shall be provided with sufficient manholes for refuge, which shall in no case be placed at intervals of more than 60 feet and which shall not be less than 5 feet in height, 3 feet in width, and 4 feet in depth. Where the inclination

is more than 1 in 6 the manholes shall be at intervals of not more than thirty feet

Provided that in any case in which an Inspector considers that there are difficulties which make the provision of a manhole at the above specified intervals or of the above specified dimension not reasonably practicable, he may, by order in writing, specify a greater interval or reduced dimensions

(2) *Every manhole shall be kept clean and whitewashed both inside and for a distance of not less than one foot around the aperture and the entrance of such manhole shall be kept unobstructed.*

89. Every haulage road exceeding 100 feet in length on which the haulage is worked by gravity or mechanical power, shall be provided with proper means of communicating distinct and definite signals from all regular stopping places to the place or places at which the persons who control the haulage machinery are stationed

Provided that the Chief Inspector may, at his discretion and by order in writing, require that there shall be means of communicating signals in the reserve direction also.

The first four or principal signals shall be—

Three raps	START when at rest
One rap	STOP when in motion
	{ LOWER SLOWLY
Two raps	{ or
	{ HAUL IN SLOWLY
	{ RAISE SLOWLY
Four raps	{ or
	{ HAUL OUT SLOWLY

Any other signals shall be in addition to and shall not interfere with the foregoing

Provided that the Chief Inspector by order in writing, may, at his discretion, permit the use of a different code of haulage signals

90. A printed copy of the code of haulage signals shall be kept posted at the brakewheel or haulage engine, and at both ends of the haulage road and at every signalling station.

91. The signal handle or attachment at every stopping place on any haulage or self-acting incline shall be placed in such a position as will enable the person operating the signals to be safe in the case of a runaway tub or tubs on the incline.

92. At the top of every incline on which the haulage, not being endless rope or endless chain haulage, is worked by mechanical

power or gravity there shall be stop-blocks or other similar contrivances to prevent tubs from running away. Additional stop-blocks or runaway switches, or some other appliance for arresting the descent of tubs in the event of a runaway, shall be fixed below the first stop-blocks at a greater distance than the length of a train of tubs. There shall also be provided and attached behind the ascending tub or train of tubs a back-stay, drag or other suitable contrivance for preventing the tub or tubs from running back.

93. Where a main haulage road extends to a distance of more than 3,000 feet from the shaft or the entrance to the mine, efficient means of telephonic communication shall be provided and maintained between a suitable station near the end of every such main haulage road, the pit-bottom and the surface, or between a suitable station near the end of every main haulage road and the entrance to the mine.

Provided that the Chief Inspector may by order in writing require the provision of means of telephonic communication where in any mine the main haulage extends to a distance of less than 3,000 feet from the shaft or the entrance to the mine, where travelling is unduly arduous.

Provided further that the Chief Inspector may by order in writing permit the use of other suitable means of communication in cases in which the conditions in the mine are not suitable for telephones.

94. Where haulage is effected by means of an endless rope or chain, automatic catches shall be fixed at such points on the haulage road as may be necessary to prevent tubs from running away.

95. (1) No person shall permit a tub or tubs to run uncontrolled except with the consent of the manager.

Provided that the Chief Inspector may, by order in writing, prohibit the uncontrolled movement of tubs at any place where, in his opinion, there would be danger of injury to persons.

(2) No person shall ride on any tub, truck or wagon, either underground or above ground, except with the written permission of the manager.

96. Where the Chief Inspector so requires, travelling roads, separate from the haulage roads, shall be provided to and from the working places.

96A. In every underground part of a mine—

- (1) main haulage and travelling roads shall, as far as practicable, be kept free from accumulations of fine coal dust ;
- (2) all coal tubs shall be so constructed and maintained as to prevent, as far as practicable, coal dust escaping through their sides, ends or floors.

CHAPTER IX.

EXPLOSIVES.

97. No owner, agent or manager shall store, or knowingly allow any other person to store, within the premises of the mine any explosives otherwise than in accordance with the provisions of rules made under the Indian Explosives Act, 1884

98. No explosive shall be stored in the workings of a mine or taken into or kept in a dwelling house

99. No explosive shall be used in a mine except that provided by the manager.

100. The manager shall appoint in writing a competent person or persons to be in charge of every magazine for the storage of explosives, and no person shall be in charge of a magazine without such written authority

101. Explosives shall be issued only to competent persons appointed in writing by the manager, and no unauthorised person shall have explosives in his possession.

101A. No liquid oxygen explosive shall be used in any underground part of a mine.

102. *No gunpowder or any other kind of explosive, except fuses and detonators, shall be issued for use in blasting operations in a mine or used in a mine except in the form of cartridges.*

103. Explosives unused and left over at the end of a shift shall be returned to the magazine immediately after the end of the shift. Such returned explosives shall be re-issued before fresh stock is used.

104. The person in charge of a magazine shall keep a correct record of the quantity of gunpowder and of the numbers of cartridges of other kinds of explosives and of detonators issued from the magazine to each authorised person, and a similar record of explosives returned to the magazine.

105. The preparation of cartridges from loose gunpowder, the drying of gunpowder, and the re-construction of damp cartridges shall be carried out only by a competent person or persons appointed in writing by the manager for the purpose, and only in accordance with the conditions laid down in rules made under the Indian Explosives Act, 1884, and in a place approved by the licensing authority.

106. No explosive shall be taken into a mine except in *securely locked cases* or canisters, containing not more than five pounds each, and no person shall have in use or keep for use, at one time in any one place, more than one such case or canister. The place, in the mine at which any such case or canister is in use, or is kept for use, shall, unless solid ground directly intervenes, not be less than 30 feet from a place at which any other such case or canister is in use or kept for use :

Provided that the Chief Inspector may, in special cases by order in writing, permit, subject to such limitations as he may prescribe, the use at one time in one place of more than one such case or canister.

107. The amount of every charge of explosive shall not be disproportionate to the work to be done. The charge shall be placed in a properly drilled and placed shot hole and shall have sufficient stemming. A sufficient supply of suitable non-inflammable stemming material shall be provided at places convenient to the short-firers.

108. (1) No shot shall be stemmed or fired except by or under the personal supervision of a competent person appointed by the manager by order in writing to be a short-firer.

(2) In any mine in which more than 50 persons are employed underground at any one time, no person shall be so appointed or shall perform the duties of a shot-firer who is responsible for making inspections under sub-regulation (2) of regulation 70.

(3) With effect from the 1st day of April 1940, no person shall be appointed as a shot-firer under sub-regulation (1) unless he holds either a shot-firer's certificate or a sirdar's certificate or a manager's certificate granted under these regulations.

109. Every shot-firer shall, before a shot is fired by him or under his supervision, see that all persons in the vicinity have taken proper shelter at a safe distance ; he shall also take suitable steps to prevent any person approaching the shot and shall himself take proper shelter.

110. When two working places have approached to within 10 feet of one another, no blasting shall be done in any one of such workings unless the workmen have been withdrawn from the other working, and the same has been fenced.

Explanation.—For the purposes of this regulation, any place to which workmen have lawful access shall be deemed to be a working place.

111. In the process of charging or stemming for blasting, no person shall use or have in his possession any iron or steel pricker, scraper, tamping rod, or stemmer, and only suitable non-inflammable substance shall be used for tamping or stemming.

112. (1) *When a hole has been charged, the explosive shall not be unrammed*

(2) *No hole shall be bored at a distance of less than 12 inches from any hole where a charge has misfired nor shall a second charge be placed in any such hole.*

113. Detonators shall be kept in a securely locked box separate from any other explosive and no detonator shall be inserted into the priming cartridge until immediately before it is to be used :

Provided that in the case of a wet working, priming cartridges may be prepared at the nearest convenient dry place adjacent to the working.

114. No explosive shall be forcibly pressed into a hole of insufficient size.

115. (1) In any place in a mine in which the use of a locked safety lamp is for the time being required by or in pursuance of these regulations—

(a) no shot shall be stemmed or fired by any person who does not hold a sirdar's certificate endorsed for gas testing ;

(b) no shot shall be fired until the shot-firer has examined both the place where the shot is to be fired and all accessible places within a radius of 60 feet for the presence of inflammable gas and has found such places free from gas ;

(c) no shot of a Permitted Explosive shall be fired except by means of a shot-firing apparatus of a type approved

by the Chief Inspector and subject to such conditions as he may from time to time lay down by notification in the *Gazette of India* :

Provided that the Chief Inspector may, in special cases, by order in writing, permit, subject to such conditions as he may specify, the use of any other shot-firing apparatus.

(2) (i) Every approved shot-firing apparatus in use in a mine shall, once at least in every three months, be cleaned and thoroughly overhauled by a competent person appointed in writing by the manager.

(ii) No person shall use or allow to be used any approved apparatus which has become unsafe or defective.

(3) No shot shall be fired at any place underground in a mine unless the place itself and all accessible places within a distance of 60 feet—

(a) are naturally wet, or

(b) have been drenched with water to such an extent that there will be no danger of dry coal-dust being raised into the air by the shot, or

(c) have been thoroughly treated with incombustible dust.

116. No explosive other than a Permitted Explosive shall be used—

(a) in any mine in which inflammable gas has within the previous twelve months been reported to be present or in which safety lamps are required, by or in pursuance of these regulations, to be used for any purpose other than inspections ; and

(b) in any other mine in any main haulage road or main intake or main return airway or any place immediately contiguous to such road, intake, airway or place, unless such road, intake, airway or place is naturally wet throughout :

Provided that in the case of any mine or any part of a mine an exemption may be given by the Chief Inspector, subject to such conditions as he may impose, on the ground that, on account of the special character of the mine, the prohibition of the use of explosives other than Permitted Explosives is not necessary.

116A. In any mine in which the use of Permitted Explosives is required by these regulations or by any bye-law or order made under the Act :—

- (a) where more shots than one are charged for firing, the shots shall be fired simultaneously ;
- (b) the aggregate charge in any number of shots fired simultaneously in coal shall not exceed the permissible maximum charge laid down by the Chief Inspector for the kind of "Permitted Explosive" used ;
- (c) no shot shall be fired in coal in any gallery unless—
 - (1) the coal has been undercut, overcut or sidecut ; and
 - (2) the length of the shot hole is at least six inches less than the length of the cut.

116B. In any underground part of a mine two or more shots shall not be charged or fired in the same place simultaneously, if the explosive used is not a Permitted Explosive :

Provided that this regulation shall not apply to—

- (a) working places in which the roof, floor and sides within a radius of 100 feet of the place where shots are to be fired are naturally wet ; or
- (b) a cross-measure drift in stone if such drift does not contain dry coal-dust ; or
- (c) shafts which are in the process of being sunk through or across the strata.

116C. *Where shots are fired electrically, the shot-firer shall—*

- (i) *for the purpose of firing, use a cable which is not less than 60 feet in length ;*
- (ii) *before coupling the cable to the firing apparatus couple up the cable himself to the fuse or detonator wires ;*
- (iii) *take care to prevent the cable coming into contact with any power or lighting cable ; and*
- (iv) *himself couple the cable to the firing apparatus, and before doing so, see that all persons in the vicinity have taken proper shelter at a safe distance.*

117. After a shot has been fired the shot-firer appointed under regulation 108 or other competent person appointed in writing by the manager of the mine shall, before any other person enters the

place, make a careful examination and with his assistants make the place safe. No other person shall enter the place until the examination has been made and the place has been declared to be safe in all respects

118. When a shot has misfired, the entrance to the firing place shall be fenced, and no person shall go beyond the fence until the expiration of one hour from the time of *misfiring*; *but when an electrical apparatus has been used for firing*, this interval may be reduced to such time, not being less than ten minutes after the cable has been disconnected from the firing battery, as the manager of the mine may in each case direct.

119. When a shot has misfired, the official or other competent person in charge of the explosive at the time of the misfire shall report the failure to the manager or under-manager, who shall record the fact in a book to be kept for the purpose; and such official or other competent person shall give information of the failure to such person as may relieve or take over charge from him.

120. When a misfired charge of explosive has been blasted out, a careful search for cartridges and detonators, if any, shall be made amongst the debris, and, if not located underground, the tubs into which the debris is loaded shall be marked and a further search made on the surface.

CHAPTER X

VENTILATION AND LIGHTING

121. (1) An adequate amount of ventilation shall be constantly produced in every mine to clear away smoke and to dilute and render harmless inflammable and noxious gases to such an extent that the working places of the shafts, levels and workings of the mine, and the travelling roads to and from these working places, shall be in a safe state for persons working or passing therein

(2) *Where the Chief Inspector is of the opinion that it is necessary for the adequate ventilation of a mine or for the prevention of danger from inflammable or noxious gases, he may require that a mechanical ventilator shall be installed.*

121A. (1) The Chief Inspector may require the manager of any mine in which, or in any part of which, a mechanical ventilator

is in use, to submit within one month Standing Orders specifying the action that shall be taken with respect to the withdrawal of workmen from such mine or parts of such mine in the event of a stoppage of the mechanical ventilator.

(2) The Chief Inspector may approve of such Standing Orders either in the form submitted to him or with such additions or alterations as he may think fit and shall give notice in writing to the manager that the Standing Orders in the form approved by him shall be enforced at the mine.

(3) On receipt of the notice from the Chief Inspector, the manager shall post the Standing Orders in conspicuous places at the mine both above and below ground and shall be responsible for securing effective compliance with them.

122. (1) *In every mine in which inflammable gas has been found within the previous twelve months or where workings have been walled off on account of fire, the quantity of air shall at least once in every month be measured—*

- (i) *in the main intake airways of every seam as near as practicable to the downcast shafts ;*
- (ii) *in every split, as near as practicable to the point at which the split commences ; and*
- (iii) *in each ventilating district, as near as practicable to a point where the air is sub-divided at the end of a main split or where it enters the first working place.*

(2) *The measurements referred to in sub-regulation (1) shall be entered in a book kept at the mine for the purpose.*

123. (1) No artificial light other than an approved locked safety lamp shall be allowed or used—

- (a) *in any seam in a mine in which an explosion or ignition of inflammable gas has occurred during the previous twelve months :*

Provided that the Chief Inspector may, subject to such conditions as he may impose, exempt any mine from the operation of this clause, on the ground that on account of the special character of the mine the use of safety lamps is not necessary ;

- (b) *in any place in a mine in which there is or likely to be any such quantity of inflammable gas as to render the use of naked lights dangerous ;*

(c) in any working near a place in which there is likely to be an accumulation of inflammable gas ; or

(d) in any ventilating district of a mine in which inflammable gas has been found during the previous twelve months.

(2) If any difference of opinion arises between an Inspector and a manager on the question whether the conditions specified in clauses (b) and (c) of sub-regulation (1) exist in any mine, the question shall be referred to the Chief Inspector whose decision thereon shall be final.

(3) In the case of any mine to which clause (d) of sub-regulation (1) applies the Chief Inspector may, if safety lamps are not immediately available, grant a temporary exemption from the operation of that clause, subject to such conditions as he may specify, until such time as safety lamps can be obtained.

(4) In any mine or part of a mine in which safety lamps have been in use in compliance with the provisions of sub-regulation (1), no artificial light other than an approved locked safety lamp shall subsequently be allowed or used, except with the written consent of the Chief Inspector.

Explanation —Where the ventilation in a mine is not mechanically controlled, the ventilating district shall be deemed to include the whole mine. Where the ventilation in part only of a mine is not mechanically controlled, the whole of the part in which ventilation is not mechanically controlled shall be deemed to be a single ventilating district.

124. Notwithstanding anything contained in regulation 123, fixed electric lights from power mains may be used in any part of a mine which is not within 600 feet of any working face, provided such installation complies with the rules made under the Indian Electricity Act, 1910, relating to the use of electric energy in parts of mines in which inflammable gas is likely to occur in quantity sufficient to be indicative of danger.

125. In any mine in which inflammable gas has been found during the previous twelve months, no advance gallery shall be driven more than ten feet ahead of the widened gallery and in every such gallery the ventilating current shall be conducted as near to the working face as is practicable.

126. All safety lamps in ordinary use shall be numbered, and such record shall be kept of the persons to whom the lamps are issued that the user of any particular lamp can at any time be identified from the record.

127. In every mine or part of a mine in which the use of safety lamps is for the time being required by or in pursuance of these regulations, the following provisions shall have effect, namely :—

- (a) A competent person shall be appointed in writing by the manager to clean, trim, examine, and lock securely all such lamps before they are taken into the workings for use, and such lamps shall not be issued for use until they have been so examined and found to be in safe working order and securely locked.
- (b) A competent person appointed in writing by the manager for the purpose shall examine every safety lamp at the surface immediately before it is taken underground for use and shall assure himself as far as practicable from external observation that each lamp is in safe working order and securely locked. The person so appointed shall not be the banksman except in a mine where the number of persons employed underground is not more than fifty at any one time
- (c) No safety lamp shall be unlocked except at the appointed lamp station.
- (d) A competent person appointed in writing by the manager for the purpose shall examine every safety lamp on its being returned, after use underground. If on such examination any lamp is found to be damaged or misused, he shall record the nature of the damage or misuse in a book to be kept at the mine for the purpose. Every new entry in the book shall be shown to the manager without delay.
- (e) The manager or a competent official appointed in writing by the manager for the purpose, other than the persons referred to in clauses (a) and (b) of this regulation, shall examine thoroughly all safety lamps in use at a mine at least once in every week, and shall record the result of his examination in a book kept at the mine for the

purpose If any lamp is found to be defective, it shall not be re-issued for use until the defect has been remedied

- (f) No person, unless he has been authorised in writing by the manager either for the purpose of examining or relighting safety lamps, shall have in his possession any contrivance for opening the lock of a safety lamp.
- (g) No person shall have in his possession any unlocked safety lamp or naked light, and if it appears to any person that any safety lamp in his possession is defective or insecure he shall at once carefully extinguish the flame and report the fact to the sirdar, overman or manager.
- (h) No glass of an approved flame safety lamp shall be replaced except by a flame lamp glass manufactured by such firm and of such type and satisfying such conditions as the Chief Inspector may from time to time specify by notification in the *Gazette of India*.
- (i) No bulb of an approved electric safety lamp shall be replaced except by an electric lamp bulb manufactured by such firm and of such type and satisfying such conditions as the Chief Inspector may from time to time specify by notification in the *Gazette of India*

Explanation.—For the purposes of this regulation the term “manager” includes an under-manager and any person for the time being carrying on the duties of the manager.

128. Where the use of safety lamps is for the time being required by or in pursuance of these regulations, one or more lamp stations for lighting or relighting the lamps shall be fixed by the manager at the entrance to the mine or part of the mine, as the case may require. No such lamp station shall be in a return airway Every such lamp station shall be in charge of a person authorised in writing by the manager.

129. No person other than a person authorised by the manager to examine and lock safety lamps shall either himself take or give out for use any safety lamp.

130. No person shall wilfully damage, or improperly use, or by improper means extinguish, any safety lamp, and no one except a person duly authorised by the manager in that behalf shall unlock or open or attempt to unlock or open any safety lamp.

131. Any person discovering the presence of inflammable gas in his working place shall immediately withdraw therefrom and inform the sirdar, overman or manager.

132. In any underground part of a mine where adequate stationary lights are not in use, every person shall carry a light

133. No person shall leave a light in any underground part of a mine unless and until he has placed it in charge of some person remaining therein.

134. Every person after passing through a door or brattice cloth shall at once close it.

135. (1) In every mine or part of a mine in which the use of safety lamps is for the time being required by or in pursuance of these regulations no person shall have in his possession any match, smoking apparatus or any apparatus of any kind for striking a light except such apparatus for the purpose of shot-firing or relighting lamps as the Chief Inspector may by general or special order in writing authorise in this behalf.

(2) A competent person appointed in writing by the manager for the purpose shall search all persons employed below ground immediately before they enter such mine or part of a mine for the purpose of ascertaining whether they have in their possession any article of the nature described in sub-regulation (1).

(3) The person conducting the search shall—

(a) search or turn out all pockets ;

(b) pass his hand over all clothing ; and

(c) examine any article in the possession of the person searched.

(4) If the person conducting the search suspects that the person searched is concealing any article of the nature described in sub-regulation (1) he shall detain him and as soon as possible refer the matter to the manager or other official authorised by the manager for the purpose who shall not allow such person to enter the mine until he is satisfied that the person has no such article in his possession.

136. After such date as the Chief Inspector may fix for any mine in view of the special circumstances thereof, there shall, in every mine in which a mechanical contrivance for ventilation is used, be provided and maintained in a condition to be put into immediate operation, adequate means for reversing the air current.

CHAPTER XI.

FENCINGS AND GATES.

137. (1) Every entrance to a mine from the surface, and the top and all entrances between the top and the bottom, including the sump (if any), of every working, ventilating, or pumping shaft, and the top of every open excavation, shall be kept properly fenced.

Provided that any fence may be temporarily removed for the purpose of repairs or other operations, if proper precautions are used.

(2) Shafts and quarries temporarily or permanently out of use and any place in or about an excavation which is dangerous shall be kept properly fenced.

138. (1) Every entrance to a mine from the surface, by which the mine can be entered on foot, if it is regularly used as a travelling or haulage road, shall be provided with a gate, which shall be kept closed and locked when there are no persons underground in the mine and shall be so constructed as to prevent effectually, when closed, the entrance of persons into the mine.

(2) Every entrance to a mine from the surface, by which the mine can be entered on foot, if it is not regularly used as a travelling or haulage road, shall be permanently closed or kept properly fenced, across the whole width of the entrance.

(3) Gates and fences at entrances to mines shall be so constructed as not to prevent egress in case of emergency.

139. Every entrance to any place in a mine which is not in actual use or course of working or extension, shall be kept properly fenced across the whole width of the entrance, and every such fence shall be so constructed as effectually to prevent persons from entering such place inadvertently.

140. (1) Where any place in a mine is found to be dangerous, all approaches to the place shall be kept securely fenced off so that it cannot be entered inadvertently.

(2) Where it is necessary to prevent danger to the public, every tank or reservoir shall be securely fenced.

141. Every fly-wheel and all exposed and dangerous parts of the machinery of whatever kind used in or about a mine shall be kept securely fenced, guarded or cased in such a manner as may be necessary to prevent accident.

CHAPTER XII.

MISCELLANEOUS.

142. If any person in charge of any machinery, apparatus or appliance used in or about a mine, observes any defect or dangerous flaw therein, he shall immediately report the fact to the manager, under-manager or engine-wright, or other responsible official.

143. Every person shall strictly comply with all lawful orders issued by the manager or such other official as may be empowered by the manager to issue the same

144. No person who has been appointed by the manager in writing for a specific duty shall depute another person to do his work without the sanction of the official to whom he is subordinate ; and no such person shall absent himself without having previously obtained permission from such official for the term of his absence or without having been relieved by another person appointed as aforesaid

145. No person who has been appointed in writing by the manager for a specific duty shall sleep whilst on duty.

146. No person shall negligently or wilfully do anything likely to endanger life or limb in the mine, or negligently or wilfully omit to do anything necessary for the safety of the mine or the persons employed therein.

147. No person shall damage, destroy or improperly interfere with anything provided for or used in the working of the mine

148. No person shall remove or pass through any fence, or remove or pass any danger-signal, unless specially so authorised by the manager or an officer empowered by the manager in that behalf.

149. A competent person or persons appointed by the manager for the purpose shall keep a correct record of the number of persons going underground daily and returning from underground daily and, if required by the manager, every person shall immediately before going underground and after returning from underground record his presence in accordance with any system approved for the mine by the Chief Inspector or an Inspector :

Provided that this regulation shall not apply in the case of any person appointed to carry out duties of superintendence, management or control.

150. When wagons are about to be moved, persons likely to be endangered shall be warned by the persons in charge of the work.

151. The movement of railway wagons by gravity or manual power shall only be carried on under the direct supervision of a responsible male person who shall either himself control the brake or depute a competent person to do so. Where more wagons than one are being moved at the same time the wagons shall be coupled together. Persons employed in moving wagons shall do so only by pushing from behind the last wagon.

152. If any person required by these regulations or by any rule or bye-law to make any report is unable to write, he shall be present when his report is written for him, and shall have it read over to him, and shall attach his thumb mark to it. The person writing the report shall also sign his name at the end together with a statement that it has been read over to the person for whom it was written.

153. The fees payable under regulations 42 (1), 43 (2), 44 and 71 (2), shall be paid directly into the Treasury or a branch of the Imperial Bank of India, and the receipt of the Treasury or Bank shall be sent to the Chief Inspector along with the application to which the fee relates. An application unaccompanied by such receipt shall be rejected. The fees payable under regulation 50 (3) shall be paid direct into the Treasury or a branch of the Imperial Bank of India, but such payment need not be made until the application to which the fee relates has been accepted.

SCHEDULE I**FORM I.**

[SEE REGULATION 3 (1).]

*Monthly return of coal raisings and coal despatches
for the month 19 .*

1. Name of mine.
2. Name of owner.
3. Postal address of owner.
4. Raisings of coal of all kinds (including colliery consumption and coal used for coke making). Tons.
5. Despatches of Coal. Tons
6. Signature of owner, agent or manager.

Dated

FORM II.

[SEE REGULATION 3 (2).]

Annual return for the year ending on the 31st December 19

1. Name of mine.
2. Postal address of mine.
3. Date of opening.
4. Date of closing (if closed).
5. Situation of mine { District
Province.
6. { Name of owner.
Postal address of owner.
7. { Name of Managing Agents (if any).
Postal address of Managing Agents (if any).
8. { Name of Agent (if any), as defined in Section 3 (a) of
the Indian Mines Act.
Postal address of Agent.
9. { Name of Manager.
Postal address of Manager.
10. Means by which coal is raised from the mine, *i.e.*, hand labour, mechanical or electrical power.

FORM IIA.

[SEE REGULATION 3 (4)]

Week selected by the Chief Inspector—February... ..
to 19 .

Day to which this return relates—February19 .

PART I.

*Total number of persons attending work on
the day shown above.*

Classification	No of persons.
A—Underground (i.e., places lying beneath the superjacent ground)	
I Males	
B—Open workings [i.e., in workings of the mine (including quarries) which are not situated beneath the superjacent ground].	
I Males	
II Females	
C—Surface (i.e., not in the workings of the mine, including all subordinate officials and persons employed on siding, loading wharves, private railways and surface tramways and also in carting)	
I Males.	
II Females	

PART II.

*Total number of persons who ordinarily work in the mine
but were prevented by sickness or other cause from
attending work on the day shown above.*

Classification.	No of persons.
A—Underground (i.e., in places lying beneath superjacent ground).	
I Males	
B—Open workings [i.e., in workings of the mine (including quarries) which are not situated beneath the superjacent ground]	
I Males	
II Females	
C—Surface (i.e., not in the workings of the mine, including all subordinate officials and persons employed on siding, loading wharves, private railways and surface tramways and also in carting).	
I. Males	
II. Females	

I certify that the total number of persons attending work was not higher on any other day of the week selected by the Chief Inspector.

Dated the.....19 . Owner, Agent or Manager.

NOTE—Where males are employed in both underground and open workings, the figures relating to them should be included under Section A.

Name of Mine.

Name of Owner.

Postal Address of Owner.

Signature of Owner, Agent or Manager.

Date.

FORM III.

[SEE REGULATION 3 (2).]

Persons employed during the year ending on 31st December 19 , and wages paid for work done in December 19 .

Classification.	Aggregate number of daily attendances during the year of persons permanently and temporarily employed.	Number of days worked during the year	Daily average number of persons employed as calculated by dividing the aggregate number of attendances by the number of days worked during the year	Average hours worked per week during the year	Aggregate number of daily attendances in December	Total amount paid in wages for work done in December	Average daily earnings in December as calculated by dividing the amount in column 7 by the number of attendances in column 6
	2	3	4	5	6	7	8
I.							
A—Underground (i.e., in places lying beneath the superjacent ground).							
I. Males—							
Overmen and/or sirdars							
Coal Cutters							
Loaders							
Skilled labour not included above							
Unskilled labour not included above.							
Total (Males)							
B—Open working [i.e., in workings of the mine (including quarries) which are not situated beneath the superjacent ground].							
I. Males—							
Overmen and/or sirdars							
Coal Cutters							
Loaders							
Skilled labour not included above							
Unskilled labour not included above.							
Total (Males)							
II Females							

FORM III—continued.

Classification.	Aggregate number of daily attendances during the year of persons permanently and temporarily employed.	Number of days worked during the year	Daily average number of persons employed as calculated by dividing the aggregate number of attendances by the number of days worked during the year	Average hours worked per week during the year	Aggregate number of daily attendances in December	Total amount paid in wages for work done in December	Average daily earnings in December as calculated by dividing the amount in column 7 by the number of attendances in column 6.
1	2	3	4	5	6	7	8
C.—Surface (i.e., not in the workings of the mine, including all subordinate officials and persons employed on sidings loading wharves, private railways and surface tramways and also carting).							
I. Males—							
Clerical and supervising staff (excluding the superior supervising staff)							
Skilled labour							
Unskilled labour							
Total (Males)							
II. Females							

NOTE (1).—Where males are employed in both underground and open workings, the figures relating to them should be included under Section A.

NOTE (2).—Where workmen are paid through contractors, the sums entered in column 7 should be the sums paid by the contractors to the workmen, so far as these can be ascertained.

FORM IV.

[SEE REGULATION 3 (2).]

Accidents and Prosecutions.

Number of separate accidents* reported during the year.			Number of persons.		Number of prosecutions instituted by the management, with the sections viced with the sections and rules under which rules under which the prosecutions were instituted
Fatal.	Serious	Total	Killed.	Seriously injured	
1	2	3	4	5	6
					7

* Accidents, which were reported as serious accidents but resulted fatally, should be entered as fatal accidents

FORM V.

[SEE REGULATION 3 (2).]

Epidemic Diseases.

Name of disease.†	Date of appearance.	Date of disappearance	Number of cases.	Number of deaths.
Cholera	..			
Plague	..			
Small-pox	..			
Influenza	..			

† Figures for any other specified disease which has been epidemic at the mine should be entered in this form.

FORM VI.

[SEE REGULATION 3 (2).]

Type and aggregate horse-power of electrical apparatus.

1.—System of supply (whether continuous current or alternating current—

Voltage or supply ..	..	..	..	..	..
Periodicity ..	..	..	..	..	..
Source of supply ..	..	..	;	..	..

2.—Voltage at which current is used for—

Lighting ..	.	..	..	..	..
Power ..	..	..	..	..	..

3.—Aggregate horse-power of motors installed on surface for—

Winding ..	..	..	..	..	..
Ventilation ..	..	..	..	..	..
Haulage ..	..	..	..	..	..
Coal washing or screening ..	..	..	..	..	..
Miscellaneous ..	..	..	..	..	..

Total horse-power ..

4.—Aggregate horse-power of motors installed underground for—

Haulage ..	..	..	..	..	..
Pumping ..	..	..	..	..	..
Portable machinery ..	..	..	..	..	..
Miscellaneous ..	..	..	..	..	..

Total horse-power ..

5.—Total horse-power (addition of 3 and 4)

[SEE REGULATION 3 (2).]

Explosives, safety lamps, mechanical ventilators, and coal-cutting machines.

[illegible]

FORM VIII.

[SEE REGULATION 3 (2).]

Output for year ending on the 31st December 19 .

	Opening stocks on 1st January 19 .	Raisings (including colliery consumption and coal used for coke-making)	Total value of raisings ("Value" should be cal- culated upon actual or esti- mated selling price into wagons at the mine)	Total of columns 2 and 3	Des- patches.	Colliery consumption (exclusive of coal used for coke-making).	Coal delivered for coking on colliery.	Closing stocks on 31st December 19 .	Total of columns 6, 7, 8, and 9.
1	2	3	4	5	6	7	8	9	10
Coal, including rubble, slack and dust	Tons	Tons.	Rs	Tons	Tons	Tons.	Tons.	Tons	Tons.

COAL DESPATCHED TO COKE FACTORIES

TONS

NOTE—The total in column 5 must be the same as the total in column 10
The figures should be in tons and rupees, omitting cwt. and annas.

	Opening stocks	Coke made	Total of columns 1 and 2.	Coke despatched.	Colliery consumption	Closing stocks	Total of columns 5 and 6	Total value of coke ("value" means, and should be calculated upon actual or estimated selling price into wagons at the mine)
	1	2	3	4	5	6	7	8
Coke (hard) Coke (soft)	Tons.	Tons	Tons	Tons.	Tons.	Tons	Tons	Rs.

NOTE —The total in column 3 must be same as the total in column 7.

The figures should be in tons and rupees, omitting cwt. and annas.

Signature of Owner, Agent or Manager

(If the form is signed by Managing Agents the words "for owner" should be added.)

Date of signature.

FORM IX.

[SEE REGULATION 13.]

Notice of occurrence.

FROM _____

To
 THE CHIEF INSPECTOR OF MINES IN INDIA,
 District _____
 (through the Sub-Divisional Magistrate of _____)

Dated . . . 19

SIR,

I have the honour to furnish the following particulars of an occurrence
 a fatal accident _____

a serious accident _____

an accidental explosion or ignition _____

an outbreak of fire _____ at the _____

Mine.

smoke or other indication of outbreak of fire _____

an influx of noxious gases _____

an irruption of water _____

1. Situation of the mine (Village, Station,
 District, Province). _____

2 Name and postal address of owner. _____

3 Particulars of persons killed and injured, if any—

Name	Sex	Killed or Injured	Age.	Occupation.

4 Date and hour of the occurrence. _____

5. Place of the occurrence. _____

6. Cause and description. _____

7. Classification of accident * _____

8 Nature of injury, if any, and, if fatal, cause
 of death. _____

I have the honour to be,

SIR,

Your most obedient servant,

Owner.

Agent.

Manager.

* Under one or other of the following heads, namely:

(1) Explosions and ignitions of fire damp; (2) explosions of coal-dust; (3) falls of roof; (4) falls of sides; (5) in shafts (overwinding); (6) in shafts (ropes and chains breaking); (7) in shafts (while ascending or descending by machinery); (8) in shafts (falling down shaft); (9) in shafts (things falling down shafts); (10) in shafts (miscellaneous); (11) suffocation by gases; (12) by explosives; (13) irruptions of water; (14) haulage; (15) by underground machinery; (16) sundries underground; (17) by surface machinery; (18) boilers or pipes bursting; (19) on surface railways or tramways belonging to the mine; (20) by electricity; and (21) miscellaneous on surface.

SCHEDULE II.

[SEE REGULATION 15 (3A).]

Code of signs

BRICK, STONE, OR CONCRETE VENTILATION STOPPINGS	..	..	..	..	..
FIRE DAMS OR SEALS	.				..	
WATER DAMS	..	..	..	..	..
DOORS	..	..	..	..	..
REGULATORS	..	..	..	..	..
AIR CROSSINGS	..	..	..	..	..
TELEPHONES	..	..	..	..	..
UNDERGROUND AMBULANCE STATION IN RED						
DIRECTION OF AIR CURRENT	..	..	..	..	..

SCHEDULE III.

[SEE REGULATION 43 (1) (b).]

Form of application for registration.

1. Name, nationality, and address of the applicant.
2. Age.
3. Full details of qualifications and previous mining experience.
4. Name of the mine or mines in the Indian Dominion in which the training is desired.
5. The capacity or capacities in which it is proposed to obtain the training.
6. Whether the owner, agent or manager of the mines has agreed to the training.
7. Date on which it is proposed to commence training.
8. Any other relevant information which the applicant may like to mention.

Date.....

Signature of applicant.

INDIAN METALLIFEROUS MINES REGULATIONS, 1926.

Contents

Chapter I —Returns, Notices and Records.
Chapter II —Plans.
Chapter III —Management
Chapter IV —Shafts and Outlets
Chapter V.—Raising and Lowering Persons or Materials.
Chapter VI.—Mine Working.
Chapter VII.—Ladderways.
Chapter VIII.—Explosives.
Chapter IX.—Miscellaneous.
Schedule.
Forms.

INDIAN METALLIFEROUS MINES REGULATIONS, 1926.¹

In exercise of the powers conferred by Section 29 of the Indian Mines Act, 1923 (IV of 1923), and in supersession of the rules published with the notifications by the Government of India in the Department of Commerce and Industry No. 11793-103, dated the 30th December 1908, and No. 6436-152, dated the 2nd September 1911—and of all notifications amending those rules, the Governor-General in Council is pleased to make the following regulations, the same having been previously published as required by sub-section (1) of Section 31 of the said Act, namely —

REGULATIONS FOR ALL MINES EXCEPT COAL MINES.

1. (1) These regulations may be called the Indian Metalliferous Mines Regulations, 1926.

(2) They shall apply to every mine of whatever description other than a coal or an oil mine.

2. In these regulations, unless there is anything repugnant in the subject or context—

(a) “the Act” means the Indian Mines Act, 1923 ;

¹ These Rules were published under Government of India, Department of Industries and Labour Notification No M —1055 (2), dated the 8th September, 1926.

- (b) "the District Magistrate", in relation to any mine, means the District Magistrate of the district in which the mine is situated.

Provided that in the case of a mine which is situated partly in one district and partly in another, the District Magistrate for the purposes of these regulations shall be the District Magistrate authorised in this behalf by the local Government.

- (c) "Form" means a Form as set out in the Schedule :

- (d) "Schedule" means the Schedule to these regulations.

CHAPTER I.

RETURNS, NOTICES AND RECORDS.

3. (1) On or before the 21st day of January in each year the owner, agent or manager of every mine shall forward to the District Magistrate and to the Chief Inspector annual returns in respect of the preceding year in the following Forms :—

Mica Mines	..	In Forms I, II, III, IV, VI and VII
Mines other than Mica Mines		In Forms I, II, III, IV, V, VI and VIII

(2) If any mine is abandoned or the working of any mine has been discontinued over a period exceeding three months or if a change occurs in the ownership of any mine the returns required by sub-regulation (1) shall be submitted, within one month from the date of abandonment or change of ownership or within four months from the date of discontinuance :

Provided that the Chief Inspector may by order in writing extend the period for the submission of such returns up to any date not later than the twenty-first day of January in the year following that to which they relate .

Provided further that nothing in this sub-regulation shall be deemed to authorise the submission of any return later than the twenty-first day of January in the year following that to which it relates.

4. The notice required by Section 14 of the Act shall be furnished in duplicate, and shall specify the name and situation of the mine, the names and addresses of the owner and the manager, and in the case of a new mine, the date on which it was opened. The District Magistrate shall on receipt of the notice forward one copy thereof to the Chief Inspector.

5. When a mine has been abandoned, or the working thereof has been discontinued over a period exceeding two months, the owner of the mine shall, within one month after the abandonment or within seven days after the expiry of the said period, as the case may be, send to the Chief Inspector notice in writing specifying the name and situation of the mine, the name and address of the owner, and the date and cause of the abandonment or discontinuance

6. When a mine is re-opened after abandonment or discontinuance, the owner, agent or manager shall, within one month after the date of the re-opening, send to the District Magistrate notice in writing in duplicate, specifying the name and situation of the mine, the names and addresses of the owner and the manager, and the date of the re-opening. The District Magistrate shall on receipt of the notice forward one copy thereof to the Chief Inspector.

7. When a change occurs in the name of, or in the ownership of, a mine, notice in writing of the change and of the date thereof shall be sent by the owner, agent or manager to the Chief Inspector within one month from the date of the change.

8. When any new appointment is made of an agent or manager of a mine, or any change of address of any agent or manager occurs, notice of the appointment or change and of the date thereof shall be sent by the owner, agent or manager to the Chief Inspector within one month from the date of the appointment or change.

9. When the ownership of a mine is transferred, the previous owner or his agent or manager shall make over to the new owner all plans, books and other records required to be kept under the Act, and all correspondence relevant to the working of the mine with the Department of Mines and other Government Departments.

10. If the owner, agent or manager of any mine intends to conduct or extend any mining operations under his control at or to any point within fifty yards of any railway subject to the provisions of the Indian Railway Act 1890, or of any public work in respect of which this regulation is applicable by reason of any general or special order of the Local Government under clause (u) of section 29 of the Act, he shall, not less than sixty days before commencing such operations, give notice of his intention to the Chief Inspector and also, in the case of a railway, to the Railway Administration concerned or, in the case of any such public work as aforesaid, to such authority as the Local Government may by general or special order direct.

11. If the operations in respect of which notice is given under regulation 10 are not commenced within twelve months from the expiry of the period of sixty days therein referred to, the notice shall be held to have lapsed and the provisions of that regulation shall apply as if no such notice had been given

12. The notice to be given under regulation 10 shall specify the position of the workings of the mine in relation to the railway or public work in question, the manner in which it is proposed to carry out the intended new operations, and the limits to which it is proposed to carry the said operations, and shall include a plan showing the existing and the intended mining operations in so far as they affect the railway or public work in question.

13. When any accident occurs in or about a mine causing loss of life or serious bodily injury, or when an accidental explosion, ignition, outbreak of fire or irruption of water occurs in or about a mine, the owner, agent or manager of the mine shall forthwith inform the Inspector by telephone or telegraph, and shall also, within twenty-four hours of the occurrence of such accident, explosion, ignition, outbreak or irruption send notice thereof in Form IX to the District Magistrate or to the Sub-divisional Magistrate, who shall forward it to the Chief Inspector.

14. If death results from any injury already reported as serious under regulation 13, the owner, agent or manager of the mine shall, within twenty-four hours of his being informed of the death, send notice thereof to the District Magistrate or to the Sub-divisional Magistrate, who shall forward it to the Chief Inspector.

CHAPTER II

PLANS

15. (1) The following provisions in respect of plans shall apply to all mines for gold, manganese, copper, lead, tin, and wolfram and to such other mines or parts of mines or classes thereof as the Governor-General-in Council may, by notification in the *Gazette of India*, specify.

(2) Nothing in this regulation shall be deemed to apply to any mine in which the workings do not extend under the superjacent ground, or to any mine in which excavation is being made for prospecting purposes only :

Provided that the Chief Inspector may direct that this regulation shall apply to any such mine to such extent as he may think fit.

16. The owner, agent or manager of every mine shall keep in the office at the mine an accurate plan and section or sections, properly inked in on durable paper, of the workings of the mine on a scale of not less than 100 feet to 1 inch, showing the workings up to a date not more than six months previously. The name of the mine and of its owner and the scale shall be shown on the plan and sections, and the magnetic meridian with date shall be shown on the plan. The plans and sections shall also show all shafts, drives, crosscuts, winzes, rises, excavations (stoped ground), and any tunnels and passages connected therewith. They shall also show the boundaries of the underground leasehold, where possible, and all important surface features within the boundaries such as railways, roads, rivers, streams and reservoirs which overlie any part of the workings or any point within 600 feet of any part of the mine workings ; also the general strike of the veins or mineral deposits, with their dips at different points, and the dislocations of the strata.

17. The owner, agent or manager of every mine shall, at any time on the request of the Chief Inspector or of any Inspector, produce to him at the office at the mine such plans and sections, and also, on the like request, mark on such plans and sections the then state of the workings of the mine ; and the Chief Inspector or Inspector shall be entitled to examine the plans and the sections, and for official purposes to make or have a copy made of any part thereof respectively.

18. Where any mine or any considerable part of a mine is abandoned, or the working thereof has been discontinued over a period exceeding one year, the person who was the owner of the mine at the time of the abandonment or discontinuance shall, within three months after the abandonment or within fifteen months after the discontinuance of working, as the case may be, send to the Chief Inspector accurate plans and sections of the workings of the mine up to time of the abandonment or discontinuance, or a true and accurate copy of the same :

Provided that if a change of ownership occurs after the abandonment or discontinuance and before the expiry of the three months or the fifteen months aforesaid, as the case may be, such plans and sections shall be sent forthwith.

19. After the expiry of ten years from the date of abandonment or discontinuance of working in any mine or in any considerable part of a mine, or, where the consent of the owner of the mine for the time being has been obtained, prior to the expiry of the said period, the Chief Inspector may, on such conditions as he thinks fit to impose, permit any person having interest in the said mine or part of a mine to inspect the plan or section of such mine or part of a mine sent to him in accordance with the provisions of regulation 18 and he may further, on such conditions as he thinks fit to impose, supply to any such person copies of the like plan or section.

CHAPTER III.

MANAGEMENT

20. For every mine a book, to be called the Inspection Book, shall be kept in which Inspectors may record their observations. The owner, agent or manager shall write or cause to be written at the commencement of the book:—

- (a) the name of the mine,
- (b) the name and address of the owner of the mine and of the agent if any,
- (c) the name and address of the manager of the mine.

21. (1) The owner or agent of a mine shall appoint a competent person of not less than 21 years of age to be manager of the mine. If any question arises whether any person so appointed is competent to perform the duties of manager, the decision of the Chief Inspector shall be final.

(2) One person may be appointed manager of more mines than one, provided that the size of such mines and the distance between them is not so great as to preclude the proper and thorough performance by such manager of his duties in respect of such mine. The decision of the Chief Inspector shall be final on any question arising out of this regulation.

(3) Where by reason of absence or for any other reason the manager is unable to perform the duties required of him by the Act, regulations, rules and bye-laws, the owner, agent or manager shall

authorise in writing a person, whom he considers competent, to act as manager of the mine.

Provided that—

- (a) no such authority shall have effect for a period in excess of one month ;
- (b) the owner, agent or manager, as the case may be, shall send to the Chief Inspector with the least possible delay, a written notice intimating that such an authorisation has been made, and stating the reason for the authorisation, the qualifications and experience of the person authorised and the dates of the commencement and ending of the authorisation ; and
- (c) the Chief Inspector may by order in writing revoke any authority so granted, and such order shall be final.

(4) No person shall be appointed to carry out the inspection required by regulation 43 unless he has attained the age of 21 years and has had sufficient practical experience of the working of mines. If any question arises whether the person so appointed is competent to carry out the duties required of him, the decision of the Chief Inspector shall be final.

CHAPTER IV.

SHAFTS AND OUTLETS

22. Where any part of a mine is so situated that there is any danger whatever of an irruption of surface water into the mine adequate protection against such an irruption shall be provided and maintained

23. (1) At every mine where more than 20 persons are employed under ground, or where in the opinion of the Chief Inspector it is necessary, there shall be at least two shafts or outlets, not nearer to one another than 20 feet, affording separate means of ingress and egress available to all the persons employed in the mine.

(2) Proper arrangements shall be made for persons to descend to, and ascend from, the mine at each of such shafts, or outlets. If apparatus is necessary, it shall be kept on the works belonging to the mine and shall be constantly available for use.

(3) The foregoing provisions of this regulation with respect to shafts and outlets shall not apply—

- (i) while a shaft is being sunk or an outlet is being made ;
- (ii) to any working for the purpose of making a communication between two or more shafts or outlets.

(4) The Chief Inspector may exempt from the operation of this regulation, subject to such conditions as he may think fit to impose, any mine in the case of which special difficulties exist which in his opinion make compliance with the provisions of this regulation not reasonably practicable.

CHAPTER V.

RAISING AND LOWERING PERSONS OR MATERIALS.

24. At every shaft or incline where persons or materials are lowered or raised by means of machinery the following provisions shall have effect, namely —

- (a) A single linked chain shall not be used for lowering or raising persons in any working shaft or plane, except for the short coupling chain attached to a cage, skip, wagon or bucket.
- (b) Ropes used in raising and lowering persons and all cappings or sockets and shackles shall be of the best materials and kept in good condition. The working load shall at no time be more than one-sixth of the breaking load of the rope. A similar spare rope shall always be kept in reserve at mines where there is only one hoisting shaft.
- (c) There shall be attached to every machine worked by mechanical power, and used for raising and lowering persons, one or more brakes of sufficient power by themselves to hold the cage, skip, wagon or bucket, when loaded, at any point in the shaft, and a proper indicator (in addition to any mark on the rope) showing to the person who works the machine the position of the cage, skip, wagon or bucket in the shaft, and if the drum is not on the crank shaft, there shall be an adequate brake on the drum shaft:

Provided that in the case of a shaft or winze not exceeding 100 feet in depth or a shaft or winze in course of sinking

so much of this clause as requires an indicator shall not apply.

- (d) Every apparatus on or in which persons ride in a working shaft shall be provided with a sufficient cover overhead, except—
 - (i) in that portion of a shaft which is being extended by sinking, or
 - (ii) where persons are employed at work in a shaft.
- (e) Every working shaft used for the purpose of drawing mineral or for lowering or raising persons shall, if exceeding 150 feet in depth, be provided with proper means of communicating distinct and definite signals from the bottom of the shaft, and from every entrance for the time being in use between the surface and the bottom of the shaft, to the surface, and from the surface to the bottom of the shaft and to every entrance for the time being in use between the surface and the bottom of the shaft. There shall also be proper means of transmitting distinct and definite signals from the top of every winding shaft to the winding engine. All signals shall be transmitted by mechanical or electrical means.

(f) (i) The first three or principal signals shall be—

One rap or bell	.	.	.	RAISE	when engine at rest
One rap or bell	.	.	.	STOP	when engine in motion.
Two raps or bells	.	.	.	LOWER.	
Three raps or bells	.	.	.	MEN	ready to ascend or descend.
Three raps or bells	.	.	.	IN REPLY	Men may enter the cage or other conveyance

Provided that an alternative code may be used where the written permission of the Chief Inspector has been obtained.

- (ii) Any other signals shall be in addition to, and shall not interfere with, the foregoing.
- (iii) A printed copy of the code of shaft signals shall be posted at the shaft top and at every inset, and also at the winding engine.
- (g) Every working shaft used for lowering or raising persons by machinery, other than machinery operated by hand labour, shall, if it exceeds 150 ft in depth, be provided with guides to within not less than 100 feet from the bottom of the shaft.

- (u) Adequate stationary lights shall be provided and used during working hours.—
- (1) at all places where persons have to work under ground in the immediate vicinity of shafts.
 - (2) after dark at the tops of all working shafts and at all winding engines used for raising and lowering persons.
- (i) There shall be on the drum of every machine used for lowering or raising persons such flanges, horns or other appliances as may be sufficient to prevent the rope from slipping. The rope shall be securely fastened to the drum, and there shall be at least two turns of the rope on the drum when the cage, skip, bucket or box is at the bottom of the shaft.
- (j) Every cage shall be provided with catches or some other suitable contrivance to prevent tubs from falling out, and shall, if used for lowering or raising persons, be covered incompletely at the top and closed in at the two sides in a manner sufficient to prevent persons or things from projecting beyond the sides, and shall be provided with suitable gates or other rigid fences and with a rigid hand bar fixed in a position where it can easily be reached by all persons in the cage.
- (k) The manager, or a competent person or persons appointed by the manager for the purpose shall, once at least in every 24 hours, examine the state of the external parts of the machinery and of the head-gear, ropes, chains, cages, guides, and conductors in the shafts and other similar appliances of the mine which are in actual use, both under ground and above ground, and, if more than 20 persons are employed in the mine simultaneously, shall without delay write or cause to be written a full and accurate report of the result of such examination. Every such report shall be recorded in a paged book to be kept at the mine for the purpose, and shall be signed and dated by the person who made the examination.

25. No person shall get on or off a cage, skip, tub or bucket used for lowering or raising persons after the same has been set in

motion, or leave it until it has reached the appointed stopping place ; nor shall any person ride on the top or edge of any cage, skip, bucket or box except when engaged upon work in the shaft

26. No person, when ascending or descending a shaft, shall take with him any tools or other bulky materials, save when engaged in repairing the shaft or when otherwise specially authorised by the manager .

Provided that, in the case of tools only, the manager may, by general order, permit the same to be carried

27. No person shall ride in a shaft on, or against, a loaded cage, skip, bucket or box

28. Every person, when at or about the top or the bottom of a shaft, shall obey the orders and directions of the shaft attendants on duty at the time

29. Every windlass, whim or whip in use at a shaft or winze shall be provided with a stopper, lynch peg, or other reliable holder

30. The bucket, skip or any wagon in the cage shall not be filled up to such a height that any of the contents can fall out, and the bottom of the cage shall be kept clean.

31. When tools, wood, etc., with ends projecting over the top of the cage, skip or bucket are being lowered or hoisted, the projecting ends shall be securely fastened to the rope or bow.

32. Not more than such number of persons as may be authorised by the manager shall be allowed to ride in the same cage, tub, skip or bucket at one time, and a notice specifying the authorised number shall be posted at the top of every shaft and at every inset in a shaft.

33. When the winding apparatus is not provided with some automatic contrivance to prevent overwinding, a point shall be fixed and marked on the indicator in such a way as to show when the cage or other conveyance is within a distance of twice the circumference of the drum from the completion of the wind ; and when such cage or conveyance has reached such distance it shall not, if either it or the descending cage contains persons, be raised for the remaining distance at a speed exceeding three miles per hour.

34. In shafts exceeding 300 feet in depth, where persons are raised or lowered by machinery, suitable devices shall be fitted if, in the opinion of the Chief Inspector, such are required to provide against the overwinding of cages, skips or other conveyances or to safeguard persons liable to be injured in the case of an overwind.

35. At the top of every incline on which the haulage, not being endless rope or endless chain haulage, is worked by mechanical power or gravity there shall be stop-blocks or other similar contrivances to prevent wagons from running away. Additional stop-blocks or runaway switches, or some other appliance for arresting or diverting the descent of wagons in the event of a runaway, shall be fixed below the first stop-blocks at a greater distance than the length of a train of wagons. There shall also be provided and attached behind the ascending wagon or train of wagons a backstay, drag or other suitable contrivance for preventing the wagon or wagons from running back.

36. Where wagons are moved by hand no person shall permit a wagon to run uncontrolled, and, if sprags are necessary, a sufficient number shall be provided by the manager.

37. No person shall ride upon any tub, truck or wagon either under ground or above ground without the permission of the manager.

CHAPTER VI.

MINE WORKINGS.

38. The sides of open workings shall be sloped, stepped or secured in such a manner as to prevent danger from falls of material.

39. When an open working is worked in steps, steps shall be of sufficient breadth in comparison with their height to secure safety.

40. In open workings, trees liable to fall, the overburden, and all loose ground and material, shall be removed sufficiently far from the edge, or otherwise made secure, in order to prevent danger to persons employed in the mine.

41. The roofs and sides of all travelling roads and working places shall be made and kept secure.

41A. Every footpath along which loads are carried in open workings by human agency shall comply with the following requirements—

- (a) its breadth shall not be less than three feet ;
- (b) its slope shall not be greater than 1 vertical to 2 horizontal ,
- (c) at every place where its slope exceeds 1 vertical to 4 horizontal reasonably level steps shall be provided such

that the vertical height of every step does not exceed seven inches and the dimension of every step measured horizontally from the edge to the back is not less than fourteen inches.

Explanation.—Gang-planks used for loading wagons shall not be deemed to be part of a footpath for the purposes of this regulation ; provided that every gang-plank shall be so inclined or constructed as to give a secure foot-hold.

41B. Where women are employed in carrying loads, the weight of the loads and the height and distance to which they have to be carried shall not be such as to involve risk of injury to the health of the women. If any dispute arises as to whether risk of injury to health is involved, the decision of the Chief Inspector shall be final.

42. Where the ground is not safe, all shafts in use shall be made secure with suitable timber-work or other means of support.

43. (1) A competent person or persons appointed for the purpose by the manager or underground manager shall inspect, at least once in every shift, every part of the mine in or through which any person has to work or pass, for the purpose of ascertaining the condition thereof as far as ventilation, roof, sides and general safety are concerned, and, if more than 20 persons are employed in the mine simultaneously, shall without delay write or cause to be written a full and accurate report of the result of such inspection in a book to be kept at the mine for the purpose, and shall sign and date his report.

(2) A competent person appointed by the manager for the purpose, shall, once at least in every week, examine the state of the shafts by which persons ascend or descend, and, if more than 20 persons are employed in the mine simultaneously, shall without delay write or cause to be written a full and accurate report of the result of the examination. Every such report shall be recorded in a paged book to be kept at the mine for the purpose, and shall be signed and dated by the person who made the examination.

44. Every place where work is carried on or where men are stationed or pass shall be placed under the charge of a competent person appointed by the manager or underground manager.

45. If a working place or travelling road is found to be unsafe, all persons shall be withdrawn immediately from the dangerous area and all access to such working place or travelling road, except for

the purpose of removing the danger or saving life, shall be prevented by securely fencing the full width of all entrances to the place.

46. The top and all entrances between the top and bottom of shafts, winzes, shoots or sliding holes and any openings into a stope more than 10 feet deep below a drive and other dangerous openings, shall be provided with a permanent or removable barrier in order to prevent persons or things from falling into them. When a shaft, winze, rise or stope leads directly into a travelling road or place where persons are stationed at work, the traffic at such points shall be protected against danger from anything falling from above.

47. At every shaft station where it is necessary for persons to pass from one side of the shaft to the other, provision shall be made enabling them to do so without entering or crossing a winding compartment.

48. All ladders, ladderways, platforms, doors, fences and other appliances and things in use under ground shall be maintained in proper repair. Temporary ladders, platforms or other means of climbing or keeping a footing while at work shall be provided in sinks, winzes, rises, stopes and other places where they are needed.

49. Where any working is approaching any place containing or likely to contain a dangerous accumulation of water, the working shall not exceed 6 feet in width or height, and bore-holes shall be constantly kept at such a distance in advance of the face and at such angles from the working as is necessary to obviate the danger of a sudden breaking through of such water.

50. An adequate amount of ventilation shall be constantly produced in every mine to clear away smoke and dilute and render harmless inflammable and noxious gases to such an extent that the working places of the shafts, levels, and workings of the mine, and the travelling roads to and from these working places shall be in a safe state for persons working or passing therein.

51. Underground workings and shafts, sumps and winzes which have been in disuse for some time shall be examined before again being used in order to ascertain whether foul air or other dangerous gases have accumulated therein, and also to ascertain the condition of the roof and sides ; and only such workmen as may be necessary to make such examination shall be allowed to proceed to such places until such places are certified to be in a safe state to work and travel in.

52. In any underground part of a mine where adequate stationery lights are not in use, every person shall carry a light.

53. No person shall work in any place other than a place in which he has been ordered to work by an official of the mine or by any person in whose charge he has been placed by an official of the mine

CHAPTER VII.

LADDERWAYS.

54. In ladder-shafts making an angle of 25 degrees or less with the vertical, platforms shall be provided at intervals not exceeding 35 feet. Ladders shall be placed so as to cover the openings in the platforms. Provided that in cases where timber and supplies are handled, a portion of this opening may be to one side of the ladder and in the opposite corner of the platform. Except in respect of the lowest 30 feet of a sinking shaft, ladders shall be fixed at an inclination of not less than one foot horizontal for every 10 feet vertical: provided that where exceptional circumstances require they may, with the consent of an Inspector, be fixed at a steeper inclination.

55. In ladder-shafts where the slope is less than 65 degrees and more than 30 degrees with the horizontal, platforms shall be placed at intervals of not more than 55 feet along the underlie or slope of the shaft.

56. All platforms shall be securely fenced.

57. All ladders shall be securely fastened to the sides of timbering of the shaft.

58. All ladders shall project at least three feet above the shaft-top and above every platform, or strong holdfasts shall be provided at these places in convenient positions.

59. A ladderway, which is a compartment of a shaft used also for other purposes, shall be closed off from the other compartments to such an extent as to prevent injury to workmen passing up and down the ladderway.

60. Every ladderway-opening in any travelling road or place where men are stationed or pass shall be provided with a door or with a substantial fence.

61. No person shall carry or be permitted to carry any drill, tool or any loose material on a ladderway in a vertical or steeply inclined shaft or winze, except so far as may be necessary in executing repairs.

Provided that nothing in this regulation shall prevent a person from carrying tools on a ladderway to a stope

CHAPTER VIII

EXPLOSIVES

62. The explosives provided for use in the mine shall be of good quality and, as far as can be practically known, in good condition, and only detonators of one strength and of sufficient power for every class of explosives used shall be kept for use in the same mine.

63. Explosive shall not be taken into or kept in a dwelling house, but only in a properly constructed magazine.

64. (1) Explosives shall not be stored under ground in a mine except with the approval of an Inspector in writing, and in a magazine or magazines duly licensed in accordance with the provisions of rules made under the Indian Explosives Act, 1884.

(2) The manager shall appoint in writing a competent person or competent persons to be in charge of every magazine for the storage of explosives and no person shall be in charge of a magazine without such written authority.

(3) Explosives shall be issued only to competent persons appointed by the manager or underground manager or foreman, and no unauthorised person shall have explosives in his possession. The names of such competent persons shall be registered in a book to be kept for the purpose.

(4) The person in charge of a magazine shall keep a correct record of the quantity of gunpowder and of the numbers of cartridges of other kinds of explosives and of detonators issued from the magazine to each authorised person, and a similar record of explosives returned to the magazine.

65. Underground magazines shall be placed at a sufficient distance from one another and from any portion of the mine, in which work is going on or which is used as a travelling road, to prevent the risk of injury to any person in the event of the explosion of the maximum amount of explosive stored

66. The quantity of explosive which may be stored in an underground magazine shall not exceed the supply required for two working days in the mine in which the magazine is situated.

67. Detonators shall be kept in a securely locked box separate from any other explosive and no detonator shall be inserted into a priming cartridge until immediately before it is to be used

Provided that, in the case of a wet working, priming cartridges may be prepared at the nearest convenient dry place adjacent to the working.

68. Every precaution shall be adopted to prevent the explosion or ignition of explosives stored in an underground magazine. The Chief Inspector may prescribe precautions to be adopted in addition to those required by the terms of the explosives licence

69. No naked light shall be taken into an underground magazine or store.

70. Explosives shall not be sent down in the cage, skip or bucket unless there is a distinguishing mark attached to the cage, skip or bucket, or they are accompanied by a shot-firer or responsible person.

71. All blasting operations shall be conducted by or under the personal direction of duly competent persons, not less than 18 years of age, appointed by the manager, underground manager or foreman. The names of these persons shall be registered in a book to be kept for the purpose.

72. The number of shots fired, the quantity of explosives used and the number of shots (if any) which have misfired shall be recorded daily in a book to be kept for the purpose.

73. All unused explosives shall be returned to the magazine without delay. Such returned explosives shall be re-issued before fresh stock is used.

74. No explosives shall be taken into a mine except in a secure case, canister or bag containing not more than five pounds each, and a person shall not have in use or keep for use, at one

time in any one place within the mine, more than one such case, canister or bag. The place in the mine at which any such case, canister or bag is in use, or is kept for use, shall, unless solid ground directly intervenes, not be less than thirty feet from a place at which any other such case, canister or bag is in use or kept for use:

Provided that the Chief Inspector may, in special cases and by order in writing, permit, subject to such limitations as he may prescribe, the use at one time in one place of more than one of such cases, canisters or bags

Provided further that nothing in this regulation shall prohibit the conveyance of larger quantities of explosives for supplying an underground magazine.

75. When explosives are being carried on a ladder, each case, canister or bag shall be securely fastened to the person carrying it.

76. In the process of charging or stemming a hole no person shall use an iron or steel tool, scraper or tamping rod, nor shall he use undue force in pressing the explosive into the hold or strike it when at the bottom of the hole.

77. In any underground working place only those holes which are to be fired in the next round shall be charged, and the fuses in all holes which have been charged shall be ignited or detonated together.

78. Before a shot is fired in an underground working place due warning shall be given to persons in the vicinity, and every entrance to the place where a shot is about to be fired shall be guarded so as to prevent any person, not having received warning, from placing himself in dangerous proximity to the shot.

79. (1) When two underground working places have approached to within 10 feet of one another, no blasting shall be done in any one of such workings unless the workmen have been withdrawn from the other working, and the same has been fenced.

Explanation.—For the purpose of this sub-regulation any place to which workmen have lawful access shall be deemed to be a working place.

(2) In open workings blasting shall not be commenced until such warning as will prevent danger to the persons working in the mine and in its vicinity has been given by an efficient system of signals

or by other means arranged by the manager. Notice shall similarly be given as soon as blasting is finished.

80. When shots are fired, the number of reports shall be counted by at least two persons. The lowest count shall be taken to be correct. Unless it is certain that all the shots have exploded, no person shall re-enter such working place until 30 minutes after blasting, unless the shot has been fired by electrical means when this interval may be reduced to not less than ten minutes after the source of the electricity has been disconnected from the cable and the place becomes clear of fumes. If the charge is known to have burnt away without exploding no person shall re-enter the working place for an hour.

81. After a shot has been fired in an underground working place the person who fired the shot or a competent person appointed in writing by the manager of the mine shall before any other person enters the place, make a careful examination and with his assistants make the place safe. No other person shall enter the place until the examination has been made and the place has been declared to be safe in all respects.

82. No person shall bore out a hole that has once been charged or attempt to withdraw a charge either before firing or after a misfire or deepen or tamper with empty holes or sockets left after blasting.

83. When a misfire occurs, a portion of the tamping may be sludged out with compressed air or water under pressure, but no kind of tool shall be used for this purpose. The hole shall thereafter be reprimed and fired.

84. No person shall drill or cause or permit to be drilled any hole within 12 inches of a misfired hole, and care shall be taken to drill the new hole in such a direction that there is no danger of touching the unexploded charge. The new hole shall be bored in the presence of an authorised shot-firer, and he shall be present during operations undertaken for the removal of debris lying within six feet of the misfired hole. A careful search amongst the debris shall be made for cartridges and detonators, if any.

85. If a place where a misfire has occurred is temporarily vacated a man shall be posted to warn all persons in the neighbourhood of the fact, or the place shall be fenced so as to prevent access. In open workings it will be sufficient to mark the place of misfire with a red flag.

CHAPTER IX.

MISCELLANEOUS.

86. (1) Every flywheel and all exposed and dangerous parts of the machinery used in and about a mine shall be kept securely fenced.

(2) Where it is necessary to prevent danger to the Public every tank or reservoir shall be securely fenced.

87. Efficient guards shall be provided for such parts of any machinery and any electrical conductors as may be a source of danger.

88. If any person, when in charge of any machinery, apparatus or appliance used in or about a mine, observes any defect or dangerous flaw therein, he shall immediately report the fact to the manager, under-manager or engine-wright

89. Every person shall strictly comply with all lawful orders issued by the manager or such other official as may be empowered by the manager to issue the same.

90. No person occupying any position of trust in or about a mine shall depute another person to do his work without the sanction of the official to whom he is subordinate ; and no such person shall absent himself without having previously obtained permission from such official for the term of his absence or without having been relieved by a competent person.

91. No person shall negligently or wilfully do anything likely to endanger life or limb in the mine, or negligently or wilfully omit to do anything necessary for the safety of the mine or the persons employed therein.

92. No person shall damage, destroy or improperly interfere with anything provided for or used in the working of the mine.

93. No person shall remove or pass through any fence, or remove or pass any danger-signal unless so specially authorised by the manager or an official empowered by the manager in that behalf

94. No person occupying any position of trust in or about a mine shall sleep whilst on duty.

95. If any person required by these regulations or by any rule or bye-law made under the Act to make any report is unable to write,

he shall be present when his report is written for him, and shall have it read over to him, and shall attach his thumb mark to it. The person writing the report shall also sign his name at the end together with a statement that it has been read over to the person for whom it was written.

96. Whenever the circumstances at any mine or part of a mine are such as to render any provision of these regulations not reasonably applicable to such mine or part of such mine, the Chief Inspector may, at his discretion, grant exemption from such provision under such conditions as he may think fit.

THE SCHEDULE

FORM I.

[SEE REGULATION 3.]

Annual return for the year ending on the 31st December 19

1. Name of mine.
2. Postal address of mine.
3. Date of opening.
4. Date of closing (if closed).
5. Situation of mine { District.
 { Province.
6. { Name of owner.
 { Postal address of owner.
7. { Name of Managing Agents (if any).
 { Postal address of Managing Agents (if any).
8. { Name of Agent (if any), as defined in Section 3 (a) of
 { the Indian Mines Act, 1923.
 { Postal address of Agent.
9. { Name of Manager.
 { Postal address of Manager.
10. Name of mineral worked.
11. Means by which the mineral is raised from the mine, *i.e.*, hand labour, mechanical or electrical power.

FORM II.

[SEE REGULATION 3.]

Persons employed during the year ending on 31st December 19 , and wages paid for work done in December 19

Classification.	Aggregate number of daily attendances during the year of persons permanently and temporarily employed.	Number of days worked during the year	Daily average number of persons employed as calculated by dividing the aggregate number of attendances by the number of days worked during the year.	Average hours worked per week during the year	Aggregate number of daily attendances in December	Total amount paid in wages for work done in December	Average daily earnings in December as calculated by dividing the amount in column 7 by the number of attendances in column 6
I	2	3	4	5	6	7	8
A.—Underground (i.e., in places lying beneath the superjacent ground).							
I. Males—							
Foremen and mates							
Miners							
Skilled labour not included above							
Unskilled labour not included above							
Total (Males) ..							
II. Females							
B.—Open workings (i.e., in workings of the mine (including quarries) which are not situated beneath the super-jacent ground]							
I. Males—							
Foremen and mates							
Miners							
Skilled labour not included above							
Unskilled labour not included above							
Total (Males) ..							
II Females							

FORM II—(continued).

Classification.	Aggregate number of daily attendances during the year of persons permanently and temporarily employed	Number of days worked during the year	Daily average number of persons employed as calculated by dividing the aggregate number of attendances by the number of days worked during the year	Average hours worked per week during the year	Aggregate number of daily attendances in December	Total amount paid in wages for work done in December	Average daily earnings in December as calculated by dividing the amount in column 7 by the number of attendances in column 6.
1	2	3	4	5	6	7	8
C.—Surface (i.e., not in the workings of the mine, including all subordinate officials and persons employed on sidings, loading wharves, private railways and surface tramways and also in carting)							
I. Males—							
Clerical and supervising staff (excluding the superior supervising staff)							
Skilled labour							
Unskilled labour							
Total (Males)							
II. Females							

NOTE (1).—Where persons are employed in both underground and open workings, the figures relating to them should be included under section A.

NOTE (2).—Where workmen are paid through contractors, the sums entered in column 7 should be the sums paid by the contractors to the workmen, so far as these can be ascertained

FORM III
[SEE REGULATION 3]
Accidents and Prosecutions.

Number of separate accidents* reported during the year.			Numbers of persons		Number of prosecutions instituted by the management with the sections and rules under which the prosecutions were instituted.	Number of persons convicted with the sections and rules under which the convictions were obtained.
Fatal.	Serious.	Total.	Killed	Seriously injured		
1	2	3	4	5	6	7

* Accidents, which were reported as serious accidents but resulted fatally, should be entered as fatal accidents

FORM IV.
[SEE REGULATION 3]
Epidemic Diseases.

Disease *	Date of appearance.	Date of disappearance.	Number of cases	Number of deaths.
Cholera	"	"		
Plague	"	"		
Small-pox	"	"		
Influenza	"	"		

* Figures for any other specified disease which has been epidemic at the mine should be entered in this form

FORM V.

[SEE REGULATION 3.]

(For mines other than mica mines)

Type and aggregate horse-power of electrical apparatus.

1.—System of supply (whether continuous current or alternating current)—

Voltage of supply . . . . .	.	.	.	.	.	.	.	.	.
Periodicity . . . . .	.	.	.	.	.	.	.	.	.
Source of supply . . . . .	.	.	.	.	.	.	.	.	.

2.—Voltage at which current is used for—

Lighting . . . . .	.	.	.	.	.	.	.	.	.
Power . . . . .	.	.	.	.	.	.	.	.	.

3.—Aggregate horse-power of motors installed on surface for—

Winding . . . . .	.	.	.	.	.	.	.	.	.
Ventilation . . . . .	.	.	.	.	.	.	.	.	.
Haulage . . . . .	.	.	.	.	.	.	.	.	.
Ore dressing . . . . .	.	.	.	.	.	.	.	.	.
Miscellaneous . . . . .	.	.	.	.	.	.	.	.	.
Total horse-power . . . . .	.	.	.	.	.	.	.	.	.

4. Aggregate horse-power of motors installed under ground for—

Haulage . . . . .	.	.	.	.	.	.	.	.	.
Pumping . . . . .	.	.	.	.	.	.	.	.	.
Portable machinery . . . . .	.	.	.	.	.	.	.	.	.
Miscellaneous . . . . .	.	.	.	.	.	.	.	.	.
Total horse-power . . . . .	.	.	.	.	.	.	.	.	.

5.—Total horse-power (addition of 3 and 4)

FORM VI
[SEE REGULATION 3.]
Particulars of Explosives

Explosives		
Name of explosive.	Quantity used in lbs	Number of detonators used

FORM VII.
[SEE REGULATION 3.]
(For mica mines only)
Output for year ending on the 31st December 19

Total amount of dressed mica raised.	Total amount of dressed mica consigned.		Total value at the mine of mica consigned ("Value" means and should be calculated upon actual or estimated selling price at the mine. Any charges incurred in transporting the mica outside the mine should not be included)
	1	2	3
Cwts.		Cwts	
Lbs.		Lbs.	

Signature of Owner, Agent or Manager
(If the form is signed by Managing Agents the words "for owner" should be added)
Date of Signature.

FORM VIII

[SEE REGULATION 3.]

(For all mines except mica mines.)

Output for year ending on the 31st December 19

Name of mineral raised and metal (if any) extracted.	Total amount of mineral raised The figures should be stated— (a) in the case of gem-stones, in carats, (b) in the case of alum, amber, asbestos, graphite, jade-stone, steatite, tin-ore, tungsten-ore, in cwts, or where the circumstances require greater particularisation in order to give an accurate estimate of small outputs, in cwts. and lbs. Output of radioactive minerals and rare minerals such as molybdenite, monazite, pitchblende, samarskite, tantalite, triplite, should be returned in cwts and lbs ; (c) in the case of clay, limestone, magnesite, marble, phosphatic rock, salt, slate, and other stone, and all metalliferous ores except those referred to in (b), in tons	Total value at the mine of mineral raised ("Value" means and should be calculated upon actual or estimated selling price at the mine) Any charges incurred in transporting the mineral outside the mine property should not be included	Quantity of metal or metals extracted at the mine. Each metal should be shown separately— (a) in the case of gold, silver and other precious metals, in Troy ounces, (b) in the case of tin in cwts and fractions of cwts, (c) in the case of other metals, in tons and fractions of tons,	Value of metals or metals extracted at the mine The value of each metal should be shown separately.
1	2	3	4	5
TOTAL	...			

Signature of Owner, Agent or Manager.

(If the form is signed by a Managing Agent the words "for owner" should be added)
Date of signature.

FORM IX

[SEE REGULATION 13.]

Notice of accident

FROM—

TO—THE CHIEF INSPECTOR OF MINES,

District
(Through _____ Magistrate of.....
Sub-Divisional

Dated 19 . .

SIR,

I have the honour to furnish the following particulars of
 a fatal accident
 a serious accident
 an accidental explosion or ignition which has occurred at the Mine :—
 an outbreak of fire
 an irruption of water

1 Situation of the mine. (Village, Station, District, Province)			
2 Mineral worked			
3 Name and postal address of owner			
4 Name and sex of persons—			
Killed	Injured	Age	Occupation.
5. Date and hour of the occurrence			
6. Place of the occurrence			
7. Cause and description			
8. Classification of accident*			
9 Nature of injury, and if fatal cause of death			

Yours faithfully,

Owner.....

Agent

Manager.....

* Under one or other of the following heads, namely —

- (1) Explosions and ignitions of fire damp, (2) falls of roof, (3) falls of side;
 (4) in shafts (overwinding); (5) in shafts (ropes and chains breaking);
 (6) in shafts (while ascending or descending by machinery); (7) in
 shafts (falling down shaft); (8) in shafts (things falling down shaft);
 (9) in shafts (miscellaneous); (10) suffocation by gases; (11) by ex-
 plosives; (12) irruptions of water; (13) haulage; (14) by underground
 machinery; (15) sundries under ground; (16) by surface machinery;
 (17) boilers or pipes bursting; (18) on surface railways or tramways
 belonging to the mine; (19) by electricity; (20) miscellaneous on the
 surface.

REGULATIONS PROHIBITING EMPLOYMENT OF WOMEN UNDERGROUND IN MINES ¹

In exercise of the powers conferred by section 29 of the Indian Mines Act, 1923 (IV of 1923), the Central Government is pleased to make the following regulations, the same having been previously published as required by sub-section (1) of section 31 of the said Act, namely.—

1. These regulations shall have effect from the 1st of July 1929.

2. In these regulations—

(1) 'exempted mine' means—

(a) coal mines in Bengal, Bihar and Orissa and the Central Provinces,

(b) salt mines in the Punjab,

(2) 'underground workings' means any part of a mine situated beneath the superjacent ground, and includes vertical shafts provided for access to or for the ventilation of such part; but does not include tunnels made and used only for convenience in disposing of spoil

3. No woman shall be permitted to enter or remain in the underground workings of any mine other than an exempted mine, unless she is authorised in that behalf in writing by the Chief Inspector.

4. In an exempted mine—

(1) up to and including the 30th day of June, 1939,—

(a) no woman shall be permitted to enter or remain in the underground workings of the mine unless—

(i) she is employed to work therein accordance with the provisions of sub-clause (b), or

(ii) she is authorised in that behalf in writing by the Chief Inspector, and

(b) the total number of women employed to work in the underground workings of the mine on any day in any year specified in column 1 of the Schedule shall not be a greater percentage of the total number of persons, both women and men so employed in the mine on that day than the percentage specified against that year, in the case of exempted coal mines, in column 3 of the Schedule; and

¹ These regulations were published under Government of India Notification No. M.—1055 dated the 7th March, 1929.

(2) on and after the 1st day of July 1939, no woman shall be permitted to enter or remain in the underground workings of the mine unless she is authorised in that behalf in writing by the Chief Inspector

SCHEDULE

1	Percentage of the total number of persons, both men and women employed underground	
	Exempted coal mines	Exempted salt mines
2	3	
1st July 1929 to 30th June 1930	29	40
1st July 1930 to 30th June 1931	26	36
1st July 1931 to 30th June 1932	23	32
1st July 1932 to 30th June 1933	20	28
1st July 1933 to 30th June 1934	17	24
1st July 1934 to 30th June 1935	14	20
1st July 1935 to 30th June 1936	11	16
1st July 1936 to 30th June 1937	8	12
1st July 1937 to 30th June 1938	5	8
1st July 1938 to 30th June 1939	2	4

COAL MINES RESCUE RULES, 1939.

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COAL MINES RESCUE RULES, 1939¹

In exercise of the powers conferred by section 30-A of the Indian Mines Act, 1923 (IV of 1923), the Central Government is pleased to make the following rules, the same having been previ-

¹ These Rules were published under Government of India, Department of Labour Notification No. M.—955 dated the 9th February, 1939

ously published as required by sub-section (1) of section 31 of the said Act, namely.—

COAL MINES RESCUE RULES

CHAPTER I.

PRELIMINARY

1. *Short title and commencement*—(1) These rules may be called the Coal Mines Rescue Rules, 1939

(2) Rules 1 to 27 shall come into force at once The remaining rules came into force on 10th December 1941.

2. *Extent*.—These rules shall apply to—

- (i) the area known as the Jharia coalfield in the province of Bihar, and
- (ii) the area known as the Raniganj coalfield in the provinces of Bengal and Bihar.

3. *Definitions*—In these rules, unless there is anything repugnant in the subject or context,—

- (a) “The Act” means the Indian Mines Act, 1923 ;
- (b) “Chief Inspector” means the Chief Inspector of Mines ;
- (c) “Committee” means the Rescue Stations Committee constituted under rule 4 ;
- (d) “Member” means a member of the Committee ; and
- (e) “President” means the President of the Committee

CHAPTER II.

CONSTITUTION AND PROCEDURE OF COMMITTEE.

4. *Constitution of Rescue Stations Committee*—(1) The Central Government shall constitute a Committee consisting of the following members of the establishment, maintenance and management of Rescue Stations in the areas to which these rules apply, namely—

- (i) an Inspector of Mines, nominated by the Chief Inspector ;
- (ii) one person nominated by the Indian Mining Association,
- ¹[(iii) one person nominated by the Indian Mining Federation] ;

¹ Amended under Ministry of Labour Notification No LP 159 (1) dated the 4th November, 1947

- ¹[*(ua)* one person nominated by the Indian Colliery Owner's Association]
- (*iv*) one person nominated by the National Association of Colliery Managers, Indian Branch
- (*v*) one person nominated by the Indian Mine Managers Association, and
- ¹[*(vi)* three persons to represent the interests of persons employed in the mines in the areas to which these rules apply of whom two shall be nominated in the manner prescribed in clause (*e*) of section 10 of the Act and the third by the Central Government]

Provided that, if any authority or body entitled to nominate any member fails to make any nomination within a period of thirty days from the date it is called upon by the Central Government to make the nomination, the Central Government may nominate a member to fill the vacancy.

(2) The members shall elect one of their number as President.

(3) No act done by a Committee shall be questioned on the ground merely of the existence of any vacancy in, or any defects in the constitution of the Committee.

5. Term of office.—(1) Save as otherwise provided that an outgoing member may continue in office until the appointment of his successor is notified.

(2) A member nominated to fill a casual vacancy or a member appointed by the Central Government on the failure of any authority or body entitled to make a nomination, shall hold office so long as the member whose place he fills would have been entitled to hold office if the vacancy had not occurred or the nomination had been made, as the case may be

(3) Inspectors of Mines shall hold office as directed by the Chief Inspector.

(4) Save as otherwise provided in these rules, the President shall hold the office of President for a period of three years from the date of his election and shall be eligible for re-election :

Provided that on ceasing to be a member, the President shall be deemed to have vacated the office of President and shall not, so long as he is not a member, be eligible for re-election.

¹ Amended under Ministry of Labour Notification No LP 159(1), dated the 4th November, 1947

6. Resignation.—(1) A member other than the President may resign his office by letter addressed to the President

(2) The President may resign his office by letter addressed to the Central Government

7. Absence from India—(1) Before a member leaves India—

(a) he shall intimate to the President the date of his departure from and the date of his expected return to India ; and

(b) if he intends to be absent from India for a longer period than six months, he shall tender his resignation

(2) If any member leaves India without taking the action required by sub-rule (1), he shall be deemed to have resigned with effect from the date of his departure from India.

(3) If the President leaves India without resigning his office as President, he shall be deemed to have resigned from the date of his departure from India

8. Vacation of Office—(1) A member shall be deemed to have vacated his seat on the Committee—

(a) if he becomes bankrupt or insolvent or suspends payment or compounds with his creditors ;

(b) if he is convicted of any offence which is punishable under the Indian Penal Code and is under the provisions of the Criminal Procedure Code nonbailable ; or

(c) if he is absent from meetings of the Committee during a period of three consecutive months without leave of absence from the Committee

(2) The Central Government may after such inquiry as it deems necessary declare that the President has vacated his office and the Committee shall thereupon elect another member as President.

9. Time and Place of Meetings.—(1) The President may at any time call a meeting of the Committee and shall do so if a requisition for that purpose is presented to him by four other members.

(2) The meetings of the Committee shall, unless the President in any case otherwise directs, be held at Dhanbad.

10. Notice of Meetings.—Not less than seven clear days before any meeting of the Committee notices of the time and place of the intended meeting, signed by the President, shall be left at or posted to the usual place of residence of every other member :

Provided that in cases of urgency an emergency meeting may be summoned at any time by the President who shall inform the

other members of the subject-matter for discussion and the reason for which he considers it urgent. Business not arising out of the subject-matter shall not be introduced or transacted at an emergent meeting.

11. *Presiding at Meetings*—The President shall preside at every meeting of the Committee at which he is present. If the President is absent from any meeting the members present shall elect one of their number to preside over the meeting and the member so elected shall at that meeting exercise all the powers of the President.

12. *Quorum*—No business shall be transacted at a meeting of the Committee unless at least four members are present.

Provided that if at any meeting less than four members attend the President may adjourn the meeting to a date not less than seven days later and inform the members present and notify other members that he proposes to dispose of the business at the adjourned meeting irrespective of a quorum, and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number attending.

13. *Powers and Duties of the President*.—The President shall be the Principal Executive Officer of the Committee and, in addition to the other powers and duties conferred upon him by these rules, shall—

- (a) present all important papers and matters to the Committee as early as practicable ;
- (b) issue orders as to the method of carrying out the decisions of the Committee ;
- (c) sign or, subject to a resolution by the Committee, authorise some other person to sign cheques issued on behalf of the Committee ;
- (d) grant or, subject to a resolution by the Committee, authorise some other person to grant receipts on behalf of the Committee for all moneys received under these rules ;
- (e) maintain or cause to be maintained an account of the receipts and expenditure of the Committee ; and
- (f) present an annual draft report on the working of the Committee to the Committee for approval and submit the report in the form approved by the Committee to the Central Government.

14. Disposal of business—(1) All questions which the Committee is required to take into consideration shall be considered either at its meetings or by circulation of the papers as the President may direct

(2) When a question is referred by circulation of papers any member may request that the question be considered at a meeting of the Committee. If three or more members make such a request, the President shall direct that it be so considered, and if any member makes such a request, he may direct that it be so considered

15. List of Business—(1) The President shall circulate to the other members at least three days before a meeting of the Committee a list of business to be disposed of at that meeting

(2) No business not on the list shall be considered without the permission of the President

16. Decision by majority—(1) Every question at a meeting of the Committee shall be decided by a majority of votes of the members present and voting on that question

(2) Every question circulated to the members shall, unless the President in pursuance of sub-rule (2) of rule 14 reserves it for consideration at a meeting, be decided in accordance with the opinions of the majority recording opinions

(3) In the case of an equal division of votes or opinions, the President shall exercise an additional vote or opinion.

17. Committee's establishment—(1) The Committee shall, from time to time, fix the scale of establishment and the salaries and allowances of all officers and servants to be employed by it and require security in such instances and to such amount as it thinks fit

(2) Subject to the scale of establishment fixed under sub-rule (1), the President shall have power to appoint, dismiss, grant leave to, suspend or reduce any person in the service of the Committee.

Provided that—

(a) no person shall be appointed to, or dismissed from, office the salary of which is one hundred and fifty rupees or upwards without the sanction of the Committee at a meeting.

(b) the grant of leave, pay and allowances to officers and servants of the Committee, who are not Government servants, shall be regulated by rules made by the Committee.

18. Remuneration of members—(1) Each non-official member shall be paid Rs 16 for each meeting attended by him, subject to a maximum of Rs 32 for any one calendar month

(2) A member performing a journey to attend a meeting, or with the approval of the Committee, on other business of the Committee, shall be paid—

(a) if a non-official, the actual travelling expenses incurred by him in performing the journey not exceeding the travelling allowance admissible to a Government servant of the first grade for a journey on tour ;

(b) if a Government servant, such travelling allowance as would be admissible to him under the appropriate rules if the journey had been performed on Government duty.

CHAPTER III

FUNDS AND ACCOUNTS

19. Imposition of Excise Duty—There shall be levied and collected on all coal and coke despatched by rail from collieries or coke plants situated in the areas to which these rules apply a duty of excise at the rate of $2\frac{1}{2}$ pies per ton from the 15th May 1943

Provided that, when it is proved to the satisfaction of the Committee or any person authorised in this behalf by the Committee, that any coal, on which the duty of excise had previously been collected, has been used in the manufacture of any coke on which also the duty has been collected, the Committee or the person authorised in this behalf by the Committee may order refund of an amount equal to the duty collected on such coal to the person from whom such duty was collected.

¹**20. Recovery of Excise Duty**—(1) The excise duty imposed under rule 19 shall, when the coal or coke is despatched by rail from collieries to any station in the Indian Dominion, be collected by the Railway Administration concerned by means of a surcharge on freight and such duty of excise shall be recovered—

(a) from the consignor, if the freight charges are being pre-paid at the forwarding station ;

¹ This Rule was substituted by the Ministry of Labour Notification No. LP 159(5), dated 13th June, 1949.

- (b) from the consignee, if the freight charges are collected at the destination of the consignment, or
- (c) from the party paying the freight if the consignment is booked on the "weight only" system

(2) Where the coal or coke is despatched by rail from collieries to stations outside the Indian Dominion, the duty of excise shall be recovered from the consignor at the forwarding station, in all cases

(3) In collecting the amount of excise duty payable on any one consignment, a fraction of an anna shall be rounded off to the nearest anna]

21. *Weight for charge*—For the purposes of the levy of the excise duty, the actual weight of a consignment, rounded off to the nearest ton, shall be taken into account

22. *Remittance of Excise Duty to the Committee.*—The total amount of excise duty collected by each Railway Administration in respect of despatches from the areas to which these rules apply, less—

- (a) refunds and write-offs, authorised by the Railway Administration under rule 23,
- (b) a deduction of $7\frac{1}{2}$ percentage not exceeding ten, shall be remitted quarterly to the Government treasury at Dhanbad for the credit of the Committee

23. *Refunds and recoveries.*—Where the amount of the excise duty due under these rules has not been collected or where the amount collected is in excess of the amount due, the Railway Administration shall deal with the undercharge or overcharge, as the case may be, on the same principles as apply to undercharges and overcharges in regard to railway freight charges.

24. *Deposit of moneys.*—All excise duty and other moneys received on behalf of the Committee shall be deposited in the Government treasury at Dhanbad to the credit of the Committee.

Provided that the Committee may from time to time authorise the retention in the charge of the President or any other person of such sum as it thinks fit as petty cash to meet contingent expenditure.

25. *Application of Excise Duty and other moneys received.*—The proceeds of the excise duty and any other moneys received by the Committee shall be applied to meeting the expenses of the Committee and the maintenance and upkeep of the Rescue Stations.

26. Keeping, Auditing and Publication of accounts—(1) The Committee shall keep accounts of all moneys received and expended during each financial year

(2) Such accounts shall be examined and audited annually by auditors appointed in this behalf by the Central Government

(3) The auditors may disallow any item which has, in their opinion, been expended out of any moneys so received otherwise than as directed by or under these rules.

(4) If any item is disallowed, an appeal may be made to the Central Government whose decision shall be final.

(5) The audited statement of receipts and expenditure together with the annual report referred to in clause (f) of rule 13 shall be submitted to the Central Government not later than July in each year.

(6) An abstract statement of the receipts and expenditure shall be published annually in the *Gazette of India*.

CHAPTER IV.

RESCUE STATIONS.

27. Maintenance and Location of Rescue Stations—(1) The Committee shall establish as early as practicable and maintain one Rescue Station in the Jharia coalfield and one Rescue Station in the Raniganj coalfield.

(2) The Stations shall be located—

(a) for the Jharia coalfield at the junction of the Jharia and Sijua roads near the Imperial Bank of India ;

(b) for the Raniganj coalfield near Asansol

28. Appointment of Superintendents.—Each Rescue Station shall be placed under the control of a competent Superintendent who—

(i) has been for two years a Superintendent or Instructor at a rescue station or a member of a permanent rescue corps, or

(ii) has been fully trained in rescue work, and has had five years' practical experience of underground work in a mine.

29. Appointment of Instructors.—(1) Not less than three competent instructors shall be employed at each Rescue Station to train rescue workers.

(2) No person shall be appointed as an instructor unless he has had at least three years' practical experience of underground work in a mine

(3) The Superintendent of the station may be included as an instructor for the purpose of sub-rule (1)

(4) At least one instructor shall always be in attendance at the Station and one instructor shall be appointed to take charge of the Station in the absence of the Superintendent.

30. *Permanent Rescue Corps.*—(1) A permanent rescue corps shall be maintained at each Rescue Station. Exclusive of the Superintendent and of the person appointed to take charge of the Station in his absence, the corps shall consist of not less than six fully trained men. One or more members shall be trained to act as leaders.

(2) It shall be the duty of the corps—

(a) to conduct rescue work and take all practicable steps to minimize danger in mines after any explosion or outbreak of fire or dangerous irruption of noxious or inflammable gas,

(b) generally to fulfil any other obligations imposed upon them by these rules

(3) A permanent rescue corps of a Rescue Station shall not be employed for reopening or recovering mines or parts thereof, which have been closed or sealed on account of explosion, outbreak of fire or irruption of noxious or inflammable gas, except at the discretion of the Committee

31. *Attendance of Corps at Station*—The members of the rescue corps maintained at a Rescue Station shall be continuously employed at the Station, and in constant residence there.

32. *Rescue apparatus and equipment.*—(1) At every Rescue Station there shall be provided and maintained in good order and ready for immediate use, apparatus and equipment suitable and sufficient to enable the requirements of these rules to be carried out. Such apparatus and equipment shall include that specified in Schedule I to these rules.

(2) The following apparatus and equipment to be provided in pursuance of sub-rule (1) shall be of a type or standard approved by the Chief Inspector :—

(a) breathing apparatus ;

(b) smoke helmets and other apparatus serving the same purpose ;

- (c) gas masks ;
- (d) reviving apparatus ,
- (e) electric safety lamps and flame safety lamps ,
- (f) first-aid boxes ;
- (g) fire extinguishers.

Any apparatus or equipment approved by the Chief Inspector in pursuance of this rule may be approved either absolutely or subject to conditions.

(3) No apparatus or equipment specified in heads (a) to (g) in sub-rule (2) shall be provided or used at any Rescue Station or mine if it is not of a type or standard approved by the Chief Inspector.

(4) Breathing apparatus for use at a mine in rescue work or training shall be obtained as required from the Rescue Station serving the mine

(5) All breathing apparatus and every flow-meter shall be adjusted and tested periodically, and the purity of oxygen for use in breathing apparatus shall be tested. The tests shall be made in the manner prescribed in Schedule II to these rules.

33. *Accident caused by equipment or apparatus*—(1) A report in writing giving particulars of every accident or dangerous occurrence arising out of the use of any breathing apparatus or smoke helmets or other apparatus serving the same purpose at any mine, shall be sent within 24 hours of the accident or occurrence to the Inspector of the Circle by the manager of the mine.

(2) If any such accident or dangerous occurrence takes place at any Rescue Station, a similar report shall be sent by the Superintendent of the Station.

CHAPTER V.

ORGANISATION AND EQUIPMENT AT MINES.

34. *Appointment of men from mines to act with permanent rescue corps.*—The manager of every mine situated in the areas to which these rules apply employing 100 or more persons under-ground on any one day of the proceeding twelve months shall appoint on the

following scale fully trained men to co-operate with the Rescue Station in rescue work and practice :—

Where the total number of persons employed underground is not more than 500	not less than one trained man
Where the total number of persons employed underground is more than 500 but not more than 1,000	not less than two trained men
Where the total number of persons employed underground is more than 1,000 but not more than 1,500	not less than three trained men.
Where the total number of persons employed underground is more than 1,500	not less than four trained men.

35. Disposition of rescue workers—(1) So far as practicable it shall be arranged that trained men for rescue work at a mine, where there is more than one, shall not all be employed underground at the same time

(2) Effective arrangements shall be made at every mine for summoning rescue workers immediately their services are required.

36. Telephonic communication.—Every mine situated in the areas to which these rules apply shall be in telephonic communication with the Rescue Station serving the mine :

Provided that if the number of persons employed underground in a mine does not exceed one hundred, the requirements of this rule shall be deemed to have been complied with if the office of the mine is situated within a distance of two miles from a telephone connected to the Rescue Station :

Provided further that the Chief Inspector may exempt any mine, where there is no public telephone system, from the provisions of this rule subject to such conditions as he may impose to ensure other prompt means of communication with the Rescue Station

37. Tracings showing ventilation, etc.—There shall be kept at every mine, other than an open mine, in which the number of persons employed exceeds one hundred, situated in the areas to which these rules apply in a form suitable for use by rescue workers, a sufficient number of clear and legible tracings, not being less than three, of

the workings of the mine up to a date not more than six months previously, showing the ventilation and all principal doors, stoppings and air-crossings, regulators and telephone stations, and distinguishing the intake airways by a different colour from the return airways. The signs used in these tracings shall be those specified in Schedule III to these rules.

38. Selection of rescue workers.—(1) The persons to be trained in rescue work shall be carefully selected on the grounds of their coolness, powers of endurance and general suitability for the work, and, in the case of men from mines to be trained to co-operate with permanent rescue corps also on the ground of their knowledge of the mine.

(2) No person shall be trained as a rescue worker unless—

- (a) he is certified by a qualified medical practitioner after examination in accordance with Schedule IV to these rules to be free from any organic disease or weakness, and to be fit for undertaking rescue work in a mine ;
- (ii) he is considered by the Superintendent of the Rescue Station to be suitable for rescue work with breathing apparatus ;
- (iii) the manager of the mine at which the person is employed certifies in writing that he has had sufficient underground experience for the purpose of rescue work ; and
- (iv) he is the holder of a certificate of proficiency in first-aid from an organization approved by the Chief Inspector.

39. Medical examination of rescue workers.—Every rescue worker so long as he continues to practise shall be re-examined every 12 months by a qualified medical practitioner in accordance with Schedule IV to these rules, and no person shall continue to practise after re-examination unless he is certified to be fit.

40. Instruction and Practice.—(1) Every person selected for training in rescue work shall undergo the course of instruction and practices set out in Part I of Schedule V to these rules, until he has been certified as efficient by the Superintendent.

(2) Rescue workers who have been so certified shall undergo practices and receive instruction as set out in Part II of Schedule V to these rules.

(3) All practices required by Schedule V shall last at least two hours except on occasion when, in the opinion of the instructor,

it is desirable in the interests of safety to curtail the practice. At some of the practices the breathing apparatus shall be worn continuously for two hours.

(4) A record shall be kept at every Rescue Station of all persons undergoing practices or receiving instruction in rescue work at the station. This record shall contain such particulars as the Chief Inspector may specify from time to time, including the date and character of each practice and the condition of each man after the practice, and if anything abnormal is observed in his condition, whether it is due to a defect of the apparatus or to the man himself.

41. *Code of Signals in training.*—The code of signals used in training shall be that set out in Schedule VI to these rules.

CHAPTER VI.

CONDUCT OF RESCUE WORK.

42. *Duties of Manager or principal official present at surface in emergencies.*—On receiving information of any emergency likely to require the services of a rescue corps or brigade, the manager, or, in his absence, the principal present at the surface shall immediately—

- (a) telephone to the Rescue Station ; inform the responsible officer on duty at the Station of the character of the occurrence ; state whether assistance will be needed from rescue brigades other than the permanent rescue corps, or the brigades attached to the mine ;
- (b) summon the trained men attached to the mine ;
- (c) summon medical assistance ;
- (d) telephone to the Chief Inspector or Inspector ;
- (d) telephone to the Chief Inspector or Inspector ;
- (e) if necessary, communicate with the Police Station.

Provided that if the mine is not in telephonic communication with the Rescue Station a message shall be sent by a reliable person to the nearest telephone for immediate communication to the Rescue Station and the Chief Inspector or Inspector.

43. *Entry into mines for rescue operations.*—(1) No person shall be allowed to enter a mine or part of mine which is unsafe for the purpose of engaging in rescue operations unless authorised

by the manager, or, in his absence, by the principal official of the mine present at the surface. Only men trained in the use of breathing apparatus shall be permitted to enter the mine for the purpose of using such apparatus.

(2) During the progress of such operations, a person or persons shall be stationed at the entrance of the mine and required to keep a written record of all persons entering and leaving the mine.

44. Leader.—(1) Every corps or brigade engaged in work with breathing apparatus in a mine shall be under a leader appointed by the Superintendent of a Rescue Station.

(2) The leader shall not engage in manual work. He shall give his attention solely to directing the brigade and to maintaining its safety. He shall examine the roof and supports during the journey in and, if there is any likelihood of a fall, shall not proceed until the brigade has made the place secure.

45. Numbers employed.—The number of persons in any corps or brigade using breathing apparatus in a mine shall not be less than five or more than six including the leader.

46. Supply of Oxygen.—If the type of apparatus admits of it, at least one person in every corps or brigade shall wear an apparatus with an extension for the supply of oxygen to another person in case of necessity.

47. Instructions to brigade regarding rescue operations.—(1) Prior to sending a brigade underground clear instructions shall be given by the principal official of the mine for the time being on the surface, or by a responsible person deputed by the agent or manager, to the leader of the brigade as to where it shall go and what it shall attempt.

(2) If the Superintendent of the Rescue Station serving the mine is present, the manager or the principal official in charge of the mine shall consult him before issuing such instructions.

(3) Unless the leader is personally thoroughly familiar with the roadways in question, the route to be followed shall be marked on a tracing, which the leader shall take with him into the mine.

(4) The leader shall not permit the brigade to go underground until he has received such instructions and, if necessary, such tracing.

(5) The leader shall not deviate from the instructions received by him except when such deviation is necessary for the purpose of saving human life.

48. Fresh air bases.—(1) As soon as possible a base or bases shall be established in fresh air, as near to the irrespirable zone or zones as safety permits. Each such base shall, if possible, be connected by telephone if the base is underground to the surface or if the base is on the surface to the shaft bottom.

(2) Except in cases where the delay involved may result in danger to life, no brigade shall proceed beyond any place where a base is to be established until there have been stationed at such base the following :—

- (a) two men, of whom at least one should understand rescue appliances and first-aid ;
- (b) a spare brigade with rescue apparatus and ready for immediate service ;
- (c) one or more reviving apparatus, oxygen-revivers, stretchers, and birds.

(3) Whenever men are already at work beyond the base, there shall be stationed at the base as soon as possible the persons, spare brigade, apparatus and equipment specified in clauses (a), (b) and (c) of sub-rule (2).

49. Supply of gas-masks and arrangements at surface—If the manager considers it necessary for safety, persons engaged in dealing with a fire shall be equipped with gas-masks and a rescue brigade equipped with apparatus shall be maintained on the surface in case of necessity.

50. Test of apparatus.—Before proceeding underground the leader shall test, or witness the testing of, all rescue apparatus of the brigade. He shall check the equipment of his party, and, immediately before entering irrespirable air, shall make sure that all apparatus is working properly :

Provided that if the leader and the manager of the mine consider that in order to save life the brigade should proceed at once into the mine, this test may be dispensed with if the apparatus has previously been tested at a Rescue Station.

51. Duties of leader underground.—(1) If the atmosphere is clear, the leader shall, when passing the junction of two or more roads, clearly indicate the route by means of arrow-marks in chalk. If the atmosphere is obscure the leader shall see that a life-line is led in from fresh air, and shall not allow any member of the brigade to move out of reach of that line ; or, if that course is impracticable,

he shall not proceed until every road branching from the route is fenced across the opening.

(2) The leader shall keep the team together and shall not allow any member of the team to stray.

(3) When using rescue apparatus the leader shall carry a watch, shall read the pressure of the compressed oxygen every 20 minutes or thereabouts, and shall commence the return journey in ample time. In travelling he shall adapt the rate to that of the slowest member. If any member of the corps or brigade is in distress, he shall immediately return to the fresh air base with the whole brigade.

(4) The leader shall not permit any corps or brigade using breathing apparatus in a mine to remain at work for longer than $1\frac{1}{2}$ hours at any one time.

52. Duties of members of rescue brigades.—Every member of a rescue corps or brigade engaged in work with breathing apparatus in a mine shall obey the orders of the leader of the team.

53. Travelling with rescue apparatus.—In travelling with rescue apparatus, each member of the brigade shall keep the place given to him when numbering off. If the pace is too quick, or if distress is felt, the member shall at once call attention to the fact.

54. Restriction on second spell of work.—No person shall commence a second or subsequent spell of work in noxious air without being examined and passed by a qualified medical practitioner, if present, or by the Rescue Station Superintendent or other competent person if a qualified practitioner be not present.

55. Code of signals.—Members of rescue corps or brigades shall, in general, use the signals prescribed in Schedule VI to these rules, in communicating to one another.

SCHEDULE I.

[SEE RULE 32 (1).]

Apparatus and Equipment.

Minimum to be kept at each Rescue Station.

(i) Twenty-four complete suits of breathing apparatus, with means of supplying sufficient oxygen or liquid air to enable such apparatus to be constantly used for two days, and of charging such apparatus.

If the type of apparatus admits of it, one set of apparatus in every four shall be provided with an attachment for supplying oxygen or air to any person found overcome by noxious gases in a mine

(iv) Four smoke helmets or other apparatus serving the same purpose with not less than 120 feet of tubing for each

(v) Twenty electric safety lamps or electric torches of a type approved by the Chief Inspector ; and 100 approved flame safety lamps.

(vi) Four oxygen reviving apparatus (not of the forced breathing type) each with a cylinder capable of supplying at least 20 cubic feet of oxygen

(vii) Thirty gas masks of a type approved by the Chief Inspector with two refills for each.

(viii) A first-aid box or boxes.

(ix) Fresh drinking water.

(x) Cages of small birds for testing for carbon monoxide

(xi) A motor ambulance or car of adequate capacity and power in constant readiness

(xii) Two portable signalling devices.

SCHEDULE II.

[SEE RULE 32 (5).]

Breathing Apparatus : Adjustment and tests.

1. In every breathing apparatus which is arranged so as to give a uniform oxygen delivery, the reducing valve shall be so adjusted as to supply not less than two litres of oxygen per minute

2. Every breathing apparatus shall be thoroughly tested at least once a month in the following manner, and the results of the test giving such particulars as the Chief Inspector by order in writing may specify in this behalf shall be recorded :—

- (i) The apparatus shall be carefully examined in respect of its general condition and particular attention shall be given to any delicate and perishable parts.

- (ii) The apparatus shall be tested for leakage by completely immersing it in water. For the purpose of this test the apparatus shall be fully distended and if it is a compressed oxygen apparatus the oxygen supply shall be turned on. The apparatus, immersed in water, shall be well shaken and closely examined in every part for leakage by the Superintendent or one of the instructors of the Rescue Station, or by the captain of the rescue brigade. If any leakage is observed the apparatus shall be deemed unsafe for use.

This test may be omitted in respect of the pack of a liquid air apparatus in so far as it would be damaged by immersion.

- (iii) The pressure at which any automatic relief valve discharges shall be measured.

3. The following additional tests shall be applied to compressed oxygen apparatus :—

- (i) The pressure in the oxygen cylinder shall be measured.
(ii) The rate of delivery of oxygen shall be measured by a flow-meter and if that rate is capable of being adjusted by the wearer of the apparatus, it shall be measured over the whole range of adjustment.

4. No breathing apparatus shall be used underground unless immediately before use it has been tested and found safe in the manner prescribed by paragraph (ii) of clause 2 of this Schedule :

Provided that as a matter of urgency to save life, this test may be omitted and a test for leakage by mouth suction applied instead.

5. The oxygen in every cylinder supplied for use in connection with breathing apparatus shall be analysed before being used in a breathing apparatus, and no oxygen which is found to contain more than two per cent. of impurities shall be used. The results of every analysis giving such particulars as the Chief Inspector may require shall be recorded.

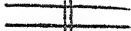

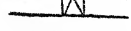
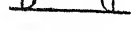
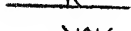



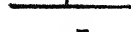

6. Flow-meters shall be tested for accuracy at least once in every six months, and the results of every test giving such particulars as the Chief Inspector may require shall be recorded.

7. Where by this Schedule any particulars are required to be recorded, they shall be recorded forthwith in a book to be kept at the station or mine, as the case may be.

SCHEDULE III.

(SEE RULE 37.)

Code of Signs.

BRICK, STONE OR CONCRETE VENTILATION STOPPINGS	
FIRE DAMS OR SEALS	
WATER DAMS	
DOORS	
REGULATORS	
AIR CROSSINGS	
TELEPHONES	
UNDERGROUND AMBULANCE STATION IN RED	
DIRECTION OF AIR CURRENT INTAKE AIRWAYS—BLUE	
RETURN AIRWAYS—RED	

SCHEDULE IV.

[SEE RULES 38 (2) (i) AND 39.]

Medical Examination.

The medical practitioner shall make a thorough examination of each person to be trained or kept in training and shall devote particular attention to the following requirements:—

1. The person must be free from—
 - (i) any tendency to fainting or vertigo ;
 - (ii) any chronic obstruction in the air passages ;
 - (iii) dyspnoea on light exertion ;
 - (iv) nystagmus ; any marked degree of myopia or any other serious optical defect or disease ;
 - (v) deafness.

2. The person must be of good physical development and mental alertness, and capable of undergoing hard physical exertion for not less than 15 minutes without being unduly distressed or fatigued

SCHEDULE V.

(SEE RULE 40.)

Part I.—Preliminary Course.

The course of instruction and practices shall be as follows --

A. Instruction in :

- (i) the general methods of dealing with underground fires and the recovery of mines after fires and explosions ;
- (ii) the construction, use, repair, maintenance and testing of the type or types provided of breathing apparatus and of smoke helmets or other apparatus serving the same purpose ;
- (iii) the use of methods and apparatus for reviving men ;
- (iv) the properties and detection of the noxious and inflammable gases which may be found in mines ;
- (v) the taking of gas samples in irrespirable atmospheres ,
- (vi) the reading of mine plans ;
- (vii) the requirements contained in Chapter VI and Schedule VI to these Rules

B. Practices —not less than 12 for each man with breathing apparatus and in addition not less than two for each man with smoke helmets or other apparatus serving the same purpose, in each case under conditions devised to resemble those likely to be encountered in underground operations requiring the use of such apparatus.

(a) the practices shall be carried out as follows :—

- (i) *For Permanent Rescue Corps.*—By at least five members jointly.
- (ii) *For Men from Mines to act with Rescue Corps* —

Not more than eight nor less than five men shall take part in any practice. If five men from the mine do not attend on any occasion the number may be made up by

members of the permanent rescue corps. So far as practicable the same five men shall practise together as one brigade

(b) The practices with breathing apparatus shall take place in ordinary air and shall progress gradually until practices can be carried out in a hot and irrespirable atmosphere

(c) The practices with breathing apparatus shall comprise the following operations :—

- (i) repeatedly raising and lowering of a weight of 56 lbs to and from a height of six feet by means of a rope and pulley
- (ii) walking continuously at a fair pace for half an hour,
- (iii) building and removing temporary stoppings of stone, brick, sandbags, brattice cloth, or other materials, and carrying the materials required for such operations over a distance of at least ten yards.
- (iv) removing debris in confined spaces as representing the clearing of a fall of roof,
- (v) setting timber or other roof supports.
- (vi) carrying, pushing or pulling on a stretcher a live person or dummy body weighing 150 lbs. along the length of the gallery,
- (vii) the rapid establishment of communication.

Part II.—Practices and Instruction after Becoming Efficient.

A. Practices :

Permanent Rescue Corps.

In addition to regular practices at the Rescue Station, practices with breathing apparatus underground in a mine at least twice in each quarter and at least twelve times in each year.

Men from Mines to act with Permanent Rescue Corps.

Practices with breathing apparatus at least once in each quarter and at least six times in each year, of which at least two shall take place in mines, and the remainder in a hot and irrespirable atmosphere.

B. Instruction.

Revision of all subjects included in Part I.

SCHEDULE VI.

(SEE RULES 41 AND 55)

Code of Signals.

Electric Signalling	Signals.	Signalling between Members of a brigade	Signals
"Distress" or "Help Wanted"	One ring	"Distress" or "Help Wanted"	One hoot
(IF NO ANSWER IS GIVEN to a call. "Distress" is to be understood)			
"Not understood" or "Repeat the Message".	Two rings	Halt	Two hoots.
"No"	Three rings	Retire	Three hoots.
"Yes" or "All right" or "All's well"	Four rings	Advance	Four hoots.
To "ring up" To "ring off"	Five rings	To call attention	Five hoots.

**COAL MINES SAFETY (STOWING) ACT, 1939
(XIX OF 1939)**

Arrangement of Sections

1. Short title, extent and commencement.
2. Definitions.
3. Constitution of Board.
4. Power to Board to co-opt members.
5. Imposition of excise duty.
6. Imposition of customs duty.
7. Payment to Board of some equivalent to the net proceeds of the excise duty.
8. Moneys received by the Board to be credited to the Fund.
9. Powers of Inspectors.
10. Application of Act IV of 1923.
- 10A. Powers of the Board in executing operations.
11. Committees of Inquiry.
12. Power to make rules.
13. Application to Crown Mines.

COAL MINES SAFETY (STOWING) ACT, 1939 (XIX OF 1939)

An Act to make further provision for safety in coal mines

Whereas it is expedient to make further provision for safety in coal mines by taking measures to facilitate or require therein,¹ [the carrying out of the operation known as stowing and other operations] and to provide for the creation of a fund for the assistance of such operation, in the manner hereinafter provided ;

It is hereby enacted as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Coal Mines Safety (Stowing) Act, 1939.

(2) It extends to [all the Provinces of India]² except Assam and the ³[East Punjab].

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

- (a) “agent”, mine” and “owner” have the meanings respectively assigned to them in section 3 of the Indian Mines Act, 1923 (IV of 1923) ;
- (b) “Board” means the Coal Mines Stowing Board constituted under section 3 ;
- (c) “Chief Inspector” and “Inspector” mean the persons respectively appointed to be Chief Inspector of Mines and Inspector of Mines under sub-section (1) of section 4 of the Indian Mines Act, 1923 (IV of 1923), and the provisions of that Act shall apply to the Chief Inspector and to all Inspectors while exercising the powers under this Act or the rules made thereunder ;
- (d) “fund” means the Coal Mines Stowing Fund ;
- (e) “prescribed” means prescribed by the rules made under this Act ;
- (f) “soft coke” means all coke which is unsuitable for metallurgical purposes, and “hard coke” means all coke which is not soft coke.

¹ Added by Coal Mines Safety (Stowing) Amendment Act, 1940.

² These words were substituted for the words “the whole of British India” by Indian Independence (Adaptation of Central Acts and Ordinance) Order, 1948.

³ These words were substituted for the word “Punjab”

(g) "stowing" means the operation of filling with sand or other incombustible material space left underground in a coal mine by the extraction of coal.

3. Constitution of Board.—(1) The Central Government shall, as soon as may be after the commencement of this Act, constitute a Board to be called the Coal Mines Stowing Board to administer the fund, and such Board shall be a body corporate and have perpetual succession and a common seal, and shall by the said name sue and be sued

(2) The Board shall consist of the following members, namely .—

- (i) a person ¹ appointed by the Central Government, as Chairman ;
- (ii) the Chief Inspector, or an Inspector appointed by the Central Government in this behalf ;
- (iii) two persons nominated by the Indian Mining Association ;
- (iv) one person nominated by the Indian Mining Federation ;
- (v) one person nominated by the Indian Colliery Owners' Association ;

Provided that if, within the prescribed period, any body fails to make the nomination which it is entitled to make under this sub-section, the Central Government may itself nominate a person to fill the place on the Board.

(3) Where a nominated member dies, resigns, ceases to reside in ²[the Provinces] or becomes incapable of acting, the Central Government shall, on the recommendation of the body which would have been entitled to make the nomination if it had been a first nomination under sub-section (2), or where such recommendation is not made within the prescribed period, may, on its own initiative, nominate a person to fill the vacancy.

(4) No act done by the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.

4. Power to Board to co-opt members.—(1) The Board may, at any time and for such period as it thinks fit, co-opt as members of the Board any persons possessing such technical qualifications as may be prescribed.

(2) A member co-opted under sub-section (1) shall exercise all

¹ The words "in the service of the crown" were omitted by Coal Mines Safety (Stowing) Amendment Ordinance, 1942 (Ordinance XXV of 1942)

² These words were substituted for the words "British India" under the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

the powers and functions of a member under this Act, except that he shall not be entitled to vote on any question coming before the Board

5. Imposition of excise duty.—With effect from such date as the Central Government may, by notification in official Gazette, appoint in this behalf, there shall be levied and collected on all coal raised and despatched, and on all soft coke manufactured and despatched, from collieries in ¹[the Provinces] a duty of excise as may, by notification in the official Gazette, be fixed from time to time by the Central Government, subject to a maximum rate of three annas per ton ; similarly there shall be levied and collected on such descriptions of hard coke as may be prescribed a duty of excise as may, by notification in the official Gazette, be fixed from time to time by the Central Government, subject to a maximum rate of one and a half times the rate of excise duty for the time being in force in respect of coal and soft coke.

6. Imposition of customs duty.—During the period in which a duty of excise is being levied under section 5, the Central Government may, by notification in the official Gazette, impose on all coal and soft coke and on such descriptions of hard coke as may be prescribed under section 5, imported into ¹[the Provinces] from any foreign country or brought into ¹[the Provinces] from the territory of any Indian State² * * * a duty of customs ³(which shall be in addition to any duty of customs for the time being leviable under any other Act) at rates equivalent to the rates of the duty of excise levied under section 5 of this Act.

7. Payment to Board of sum equivalent to the net proceeds of the excise duty.—The Central Government shall, as soon as may be in each financial year, pay to the Board a sum equivalent to the net proceeds ³[determined in such manner as may be prescribed] of the duty of excise realised under section 5 during the preceding year.

8. Moneys received by the Board to be credited to the Fund.—(1) The sum referred to in section 7 and any other money received by the Board shall be credited to a fund to be called the Coal Mines Stowing Fund, which shall be applied by the Board in such manner and subject to such conditions as may be prescribed, to—

- (i) meeting the expenses in connection with the administration and the furtherance of the objects of this Act ; and

¹ These words were substituted for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

² The words "not being a territory, etc.", deleted by Amendment Act, 1940.

³ The words under brackets were altered, *Ibid*.

(ii) the grant of stowing materials and other assistance for stowing operations to owners, agents or managers of coal mines

¹[(iii) The execution of stowing and other operations in furtherance of the objects of this Act ; and

(iv) the prosecution of research work connected with safety in mines.]

(2) The Board shall keep accounts of the fund, and such accounts shall be examined and audited at the prescribed times by auditors appointed in this behalf by the Central Government.

9. Powers of Inspectors.—(1) The Chief Inspector or any Inspector may make such examination and inquiries as he thinks fit in order to ascertain whether the provisions of this Act and of any rules and orders made thereunder are being complied with.

(2) The Chief Inspector or any Inspector may, with such assistants, if any, as he thinks fit, enter, inspect and examine at any time by day or night any coal mine in respect of which assistance is being, or has been given under this Act, in order to ascertain the amount of sand or other incombustible material used in stowing in the mine or to ensure that stowing ²[or any other operation towards which assistance may be granted under the Act] has been, or is being done effectively.

Provided that the power conferred by this sub-section shall not be exercised in such a manner as unreasonably to impede or obstruct the working of the mine

(3) Without prejudice to the provisions of section 19 of the Indian Mines Act, 1923 (IV of 1923), the Chief Inspector or any Inspector may, by order in writing addressed to the owner, agent or manager of a coal mine, require him to take such protective measures, including stowing, in the mine as the Chief Inspector or the Inspector may think necessary, if in the opinion of the Chief Inspector or Inspector—

(a) the extraction or reduction of pillars in any part of the mine is likely to cause the crushing of pillars or the premature collapse of any part of the workings or otherwise endanger human life or the mine, or

(b) adequate provision against the outbreak of fire or flooding has not been made by providing for the sealing off and

¹ Altered, *Ibid* and Amendment Act of 1944 (III of 1944)

² Added by Amendment Act, 1940.

isolation of any part of the mine or for restricting the area that might be affected by fire or flooding, as the case may be.

10. Application of Act IV of 1923.—The provisions of sub-section (3) to (6) (both inclusive) of section 19 of the Indian Mines Act, 1923, shall apply to an order made under sub-section (3) of section 9 of this Act as they apply to an order made under sub-section (2) of section 19 of that Act, and all the provisions of the Indian Mines Act, 1923, except sub-section (1) of section 11 thereof, affecting committees appointed for the purposes of that Act or relating to the disposal of references made to such committees, shall apply *mutatis mutandis* and so far as may be, to a committee appointed to enquire into a reference under this Act and to the disposal of such reference.

¹[Provided that the power conferred by the proviso to sub-section 6 of the said section 19 to suspend the operation of a requisition under sub-section (1) of that section shall include a power similarly to suspend the operation of an order made under sub-section (3) of section 9 of the Act.]

²[**10A. Powers of Board in executing operations.**—(1) If in the opinion of the Board it is necessary or desirable that any protective measures, including stowing, required in furtherance of the object of this Act, should be undertaken directly by the Board, the Board may execute or cause to be executed such measures under its own supervision.

(2) For the purposes of this section the Board shall have the right for itself and all persons employed in the execution of any work undertaken under this section to enter upon any property in which the work is to be done and to do therein all things necessary for the execution of the work.

(3) No person shall obstruct or interfere with the execution of any work undertaken under this section, and no person shall remove or tamper with any plant or machinery or any stowing or other material used in the execution of such work.

(4) Whoever contravenes the provisions of sub-section (3) shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.]

¹ The Proviso to Section 10 was added by Section 3 of Coal Mines Safety (Stowing) Amendment Act, 1944 (III of 1944).

² This new section was inserted by Section 4, *Ibid.*

11. Committees of Inquiry.—(1) A committee appointed to inquire into a reference arising out of an order passed under sub-section (3) of section 9 shall consist of—

- (a) the Chairman of the Board as Chairman
- (b) four members selected by the Chairman of the Board as follows :—
 - (i) two, from a panel of eight persons nominated by the Indian Mining Association ;
 - (ii) one, from a panel of four persons nominated by the Indian Mining Federation ;
 - (iii) one, from a panel of four persons nominated by the Indian Colliery Owners' Association ; and
- (c) one member appointed by the Central Government to represent the interests of persons employed in coal mines

(2) No person shall be nominated to the panels referred to in clause (b) of sub-section (1) unless he possesses such technical qualifications as may be prescribed.

(3) If any body fails, within the prescribed period, to make any nomination which it is entitled to make under sub-section (1) or to fill any vacancy in a panel, the Central Government shall itself nominate a sufficient number of persons to complete the panel.

12. Power to make rules.—(1) The Central Government may, after previous publication, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for any or all of the following purposes namely :—

- (a) the nomination, and term of office, of members of the Board appointed or nominated under section 3 ,
- (b) the powers and functions of, and the conduct of business by, the Board ;
- (c) prescribing the technical qualifications to be possessed by co-opted members of the Board and by persons nominated to the panels referred to in section 11 ;
- (d) prescribing the descriptions of hard coke on which a duty of excise may be levied under section 5 ;
- (e) regulating the levy, collection and payment of the duty of excise ; and the imposition, collection and payment of the duty of customs ;

- (f) prescribing the manner in which and the conditions under which sums at the credit of the fund may be applied,
- (g) prescribing the form in which the accounts of the fund shall be kept and the times at which such accounts shall be audited, and regulating the publication of the abstract of such accounts and the report of the auditors thereon, and prescribing the procedure in relation to any items of expenditure from the fund disallowed by the auditors ;
- (h) any other matter which is to be or may be prescribed.

13. Application to Crown Mines.—This Act applies to coal mines belonging to the Crown.

COAL MINES SAFETY (STOWING) RULES, 1939

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COAL MINES SAFETY (STOWING) RULES, 1939¹

In exercise of the powers conferred by section 12 of the Coal Mines Safety (Stowing) Act, 1939 (XIX of 1939), the Central Government is pleased to make the following rules, the same having been previously published as required by sub-section (1) of the said section, namely :—

COAL MINES SAFETY (STOWING) RULES

CHAPTER I

PRELIMINARY

1. *Short title and extent.*—(1) These rules may be called the Coal Mines Safety (Stowing) Rules, 1939.

(2) They extend to [all the Provinces of India]² except Assam and the [East Punjab]³.

¹ These Rules were published under Government of India, Department of Labour Notification No. M-955(2), dated the 17th October, 1939

² These words were substituted for the words "the whole of British India" by Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948

³ These words were substituted for the word "Punjab", *ibid*

2. Definitions—In these rules, unless there is anything repugnant in the subject or context,—

- (a) "Act" means the Coal Mines Safety (Stowing) Act, 1939 (XIX of 1939) ,
- (b) "Board" means the Coal Mines Stowing Board ;
- (c) "Chairman" means the Chairman of the Board ,
- (d) "Committee" means a Committee of Inquiry appointed under section 11 of the Act ;
- (e) "Fund" means the Coal Mines Stowing Fund ,
- (f) "member" means a member of the Board ,
- (g) "section" means a section of the Act

CHAPTER II

THE BOARD AND ITS PROCEDURE

3. Co-opted members—The Board may, under sub-section (1) of section 4, co-opt as members any persons possessing one or more of the following qualifications, namely :—

- (i) A first class colliery manager's certificate of competency, or a degree or diploma in mining, or special knowledge in mining affairs.
- (ii) A university degree or equivalent qualification in mechanical, electrical or civil engineering, or in fuel technology.
- (iii) A university degree or diploma or equivalent qualification in geology.
- (iv) Qualifications entitling a person to act as auditor of companies under section 144 of the Indian Companies Act, 1913 (VII of 1913).
- (v) Qualifications entitling a person to practise at the bar of a High Court in the Provinces
- (vi) Experience of not less than 5 years in the management of a Zemindari.

4. Nominations to fill vacancies.—When a vacancy occurs in the case of a nominated member or at any time within two months of the date when such a vacancy will occur in the ordinary course of events, the Central Government shall, by notice in writing, call upon the body concerned to nominate a person to fill the vacancy, and the nomination shall be made within thirty days of the date of issue of such notice.

5. Term of office.—(1) Save as otherwise provided in these rules, a nominated member shall hold office for three years from the date of his appointment and shall be eligible for re-nomination

Provided that an outgoing nominated member may continue in office until the appointment of his successor is notified

(2) A member nominated to fill a casual vacancy or a member appointed by the Central Government on the failure of any body entitled to make a nomination, shall hold office for as long as the member whose place he fills would have been entitled to hold office if the vacancy had not occurred or the nomination had been made, as the case may be.

6. Resignation.—A nominated member may resign his office by letter addressed to the Chairman.

7. Absence from India.—(1) Before a nominated member leaves India—

- (a) he shall intimate to the Chairman the date of his departure from and the date of his expected return to India ; or
- (b) if he intends to be absent from India for a longer period than six months, he shall tender his resignation.

(2) If any nominated member leaves India without taking the action required by sub-rule (1), he shall be deemed to have resigned with effect from the date of his departure from India

8. Vacation of office—A nominated member shall be deemed to have vacated his seat on the Board—

- (a) if he becomes bankrupt or insolvent or suspends payment or compounds with his creditors ; or
- (b) if he is convicted of any non-bailable offence punishable under the Indian Penal Code (Act XLV of 1860) ; or
- (c) if he is absent from meetings of the Board during a period of three consecutive months without leave of absence from the Board

9. Time and place of meetings—(1) The Chairman may at any time call a meeting of the Board and shall do so if a requisition for that purpose is presented to him by three or more members.

(2) The meetings of the Board shall, unless the Chairman in any case otherwise directs, be held in Calcutta.

10. Notice of meetings.—Not less than seven clear days before the date of any intended meeting of the Board notices of the time

and place of such meeting, signed by the Chairman, shall be delivered at or posted to the usual place of residence of every member present in India :

Provided that an emergent meeting may be called by the Chairman at any time, but in such case the Chairman shall inform the members of the subject matter for discussion and the reasons for which he considers it urgent, and at such meeting no business which does not arise directly out of such subject matter shall be introduced or transacted.

11. *Presiding at meetings*—The Chairman shall preside at every meeting of the Board at which he is present. If the Chairman is absent from any meeting the members present shall elect one of their members to preside over the meeting and the member so elected shall at that meeting exercise all the powers of the Chairman.

12. *Quorum*.—No business shall be transacted at a meeting of the Board unless at least three members are present :

Provided that if at any meeting less than three members attend, the Chairman may adjourn the meeting to a date not less than seven days later and inform the members present and notify other members that he proposes to dispose of the business at the adjourned meeting irrespective of there being a quorum, and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number attending.

13. *Disposal of business*.—(1) Every question upon which the Board is required to deliberate shall be considered either at its meeting or, if the Chairman so directs, by sending the necessary papers to members for opinion :

Provided that the papers need not be sent to any member who is absent from India.

(2) When a question is referred for opinion, any member may request that the question be considered at a meeting of the Board, and thereupon, the Chairman may, and if the request is made by three or more members shall, direct that it be so considered.

14. *List of business*.—(1) The Chairman shall send to each member present in India, at least seven days before a meeting of the Board, a list of business to be disposed of at that meeting.

(2) No business which is not on the list shall be considered at a meeting without the permission of the Chairman.

15. Decision by majority—(1) Every question at a meeting of the Board shall be decided by a majority of votes of the members present and voting on that question.

(2) Every question referred to the members for opinion shall, unless the Chairman in pursuance of sub-rule (2) of rule 13 reserves it for consideration at a meeting, be decided in accordance with the opinions of the majority recording opinions.

(3) In the case of an equal division of votes or opinions, the Chairman shall exercise an additional vote or opinion.

16. Record of business.—A record shall be maintained of all business transacted by the Board, copies of which shall be submitted to the Central Government.

17. Revision—(1) The Central Government may for reasons to be recorded in writing review any decision of the Board and pass such orders in the matter as it thinks fit.

(2) The Board shall give effect to all orders passed by the Central Government under sub-rule (1).

18. Salary and allowances of the Chairman.—(1) The Chairman shall be paid a salary and allowances from the Fund at such rates as may be fixed by the Central Government.

(2) The Chairman shall also be paid from the Fund travelling allowances for journeys performed by him in his official capacity, at the same rates and on the same conditions as are prescribed by rules in the case of officers in the employ of the Central Government drawing the same salary as the Chairman.

(3) Contributions on account of the Chairman's pension and leave salary shall be paid from the Fund at such rates as may be fixed by the Central Government.

¹[(4) The Chairman shall not engage in any trade or profession or undertake any employment or duties other than his duties under the Board.]

²[(5) In many cases not provided for sub-rule (3), the Central Government may grant to the Chairman leave on like terms and conditions as are prescribed for the time being for temporary officers of the Central Government. Leave salary payable in respect of such leave shall be paid from the Fund.]

¹ This sub-rule was inserted by Ministry of Works, Mines and Power Notification No. M-262(75), dated the 24th September, 1948.

² Inserted by Ministry of Works, Mines and Power Notification No. M-262(57), dated the 5th November, 1948.

19. Powers and duties of the Chairman—(1) The Chairman shall be the Principal Executive Officer of the Board and, as such, he shall—

- (a) present all important papers and matters to the Board as early as practicable ;
- (b) issue orders as to the method of carrying out the decisions of the Board ;
- (c) grant or, subject to a resolution by the Board, authorise some other person to grant, receipts on behalf of the Board for all moneys received under the Act ;
- (d) maintain or cause to be maintained an account of the receipts and expenditure of the Board ; and
- (e) present an annual draft report on the working of the Board to the Board for approval and submit the report in the form approved by the Board to the Central Government.

(2) The Chairman may sanction, without reference to the Board, expenditure on contingencies, supplies and services and purchase of articles required for the working of the office of the Board, subject to budget provision and to the condition that the expenditure on any single object does not exceed Rs. 500

20. Secretary to the Board—¹[(1) The Secretary to the Board shall be a person, not being a member, appointed by the Central Government.]

(2) The Secretary shall perform such duties as are imposed upon him by these rules and such other duties as may be assigned to him by the Board.

21. Board's Establishment.—(1) The Board shall, from time to time, fix the scale of establishment and the salaries and allowances of all officers and servants to be employed by it, and may require security to be taken from them in such instances and to such amount as it thinks fit :

Provided that no post the maximum salary of which exceeds rupees five hundred per mensem shall be created without the previous sanction of the Central Government.

¹ This sub-rule was substituted by the Ministry of Works, Mines and Power Notification No. M-262(26), dated the 10th August, 1948.

(2) Subject to the scale of establishment fixed under sub-rule (1), the Chairman shall have power to appoint, dismiss, suspend, reduce or grant leave to any person in the service of the Board:

Provided that—

- (a) no person shall be appointed to, or dismissed from, an office the maximum salary of which exceeds rupees five hundred without the sanction of the Central Government ;
- (b) no person shall be appointed to, or dismissed from, an office the maximum salary of which exceeds rupees two hundred but does not exceed rupees five hundred without the sanction of the Board at a meeting ,
- (c) the grants of leave, pay and allowances to officers and servants of the Board, who are not Government servants, shall be regulated by rules made by the Board ; and
- (d) the grant of leave, pay and allowances to a Government servant, whose services have been lent or transferred to the Board, shall be regulated according to the appropriate rules framed by the Central Government and applicable to such Government servant

(3) In exercising the powers conferred by clause (c) of the proviso to sub-rule (2), the Board shall, so far as may be, apply the principles of the Rules framed by the Central Government for the corresponding classes of Government servants.

(4) Save with the previous sanction of the Central Government, no travelling allowance shall be paid to any officer or servant of the Board in excess of the amount which would be admissible under the Supplementary Rules framed by the Central Government to a Government Servant of the corresponding grade.

22. Remuneration of members—(1) Each non-official member, including a non-official member co-opted under sub-section (1) of section 4, shall be paid Rs. 32 for each meeting of the Board attended by him, subject to a maximum of Rs. 64 for any one calendar month, and the actual travelling expenses incurred by him in attending the meeting.

(2) A Government servant appointed as a member, or co-opted as a member under sub-section (1) of section 4, shall be paid for attending a meeting of the Board such travelling allowance from the Fund as would be admissible to him under the appropriate rules if the journey had been performed on Government duty

CHAPTER III

THE FUND AND ACCOUNTS.

23. *Descriptions of hard coke liable to excise duty.*—All descriptions of hard coke manufactured in and despatched from collieries or coke-plants shall be subject to the duty of excise leviable on hard coke under section 5.

24. *Recovery of Excise duty.*—(1) The duty of excise imposed under section 5 on coal, soft coke and hard coke shall, when such coal, soft coke or hard coke is despatched by rail from collieries or coke-plants, be collected by the Railway Administrations concerned, and such duty of excise shall be recovered—

(i) where the consignment is booked to a place situated outside ¹[the Provinces] from the consignor .

(ii) where the consignment is booked to a place situated in ¹[the Provinces]—

(a) from the consignor, if the freight charges are being prepaid at the forwarding station,

(b) from the consignee, if the freight charges are collected at the destination of the consignment,

(c) from the party paying the freight, if the consignment is booked on the “weight only” system.

(2) In calculating the amount of duty of exercise payable on any one consignment any fractions of an anna shall be rounded off to the nearest anna.

25. *Declaration by consignor.*—All consignments of coke from collieries or coke-plants tendered for despatch by rail, shall be accompanied by a declaration advice note in which the consignor or his agent shall describe the consignment as either “soft coke” or “hard coke”, according to the nature of the consignment.

26. *Weight for charge.*—For the purpose of the levy of the excise duty, the weight of a consignment shall be that taken for the purpose of calculating the freight charges and fractions of a ton shall be rounded off to the nearest ton.

27. *Remittance of excise duty.*—The total amount of excise duty collected by each Railway Administration less—

(a) refunds and write-offs, authorised by the Railway Administration under rule 28,

¹ These words were substituted for the words “British India” by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1949.

- (b) a deduction of such percentage, as the Central Government may, by notification in the Official Gazette, fix, towards the cost of collection,

shall, under advice to the Accountant General, Bengal, be remitted quarterly to the Reserve Bank of India at Calcutta for the credit of the Central Government in a special account

28. Refunds and recoveries.—(1) Where the amount of the excise duty due under these rules has not been collected either wholly or in part or where the amount collected is in excess of the amount due, the Railway Administration shall deal with the undercharge or overcharge, as the case may be, on the same principle as apply to undercharges and overcharges in regard to railway freight charges.

(2) When it is proved to the satisfaction of the Board or any person authorised in this behalf by the Board, that any coal, on which the duty of excise under section 5 had previously been collected, has been used in the manufacture of any coke on which also the duty has been collected, the Board or the person authorised in this behalf by the Board may order refund of an amount equal to the duty collected on such coal to the person from whom such duty was collected.

29. Deposit of money.—The sum of money received under section 7 and any other moneys received by or on behalf of the Board shall be deposited to the credit of the Coal Mines Stowing Fund in the manner provided in rule 30 :

Provided that the Board may from time to time authorise the retention in the charge of the Chairman or any other person of such sum as it thinks fit as petty cash to meet contingent expenditure.

30. Keeping of accounts in Banks.—(1) The current account or accounts of the Board shall be kept in the Imperial Bank of India or such other Bank as may be approved by the Central Government, and all moneys at the disposal of the Board with the exception of petty cash and of moneys placed in fixed deposit or invested in accordance with the provisions hereinafter contained shall be paid into those accounts.

(2) Any funds not required for current expenditure may be placed in fixed deposit with any Bank approved in this behalf by the Central Government or invested in the name of the Board in any security in which Trust property may lawfully be invested under the Indian Trusts Act, 1882 (II of 1882).

(3) The placing of money in fixed deposit and the investment thereof and the disposal of moneys so placed or invested shall be subject to the sanction of Board.

(4) Payments by or on behalf of the Board shall be made in cash or by cheque drawn against a current account of the Board.

(5) The cheques referred to in sub-rule (4) and all orders for the making of deposits or investments or for the withdrawal of such deposits or the realization of such investments or for the disposal in any other manner of the funds of the Board shall be signed by the Secretary to the Board and countersigned by the Chairman or by a member authorised by the Board in this behalf.

31. Budget—(1) The Board shall in each year prepare a budget for the ensuing financial year and shall submit it for the sanction of the Central Government on or before the 1st February

(2) The budget shall include statements of—

- (i) the estimated opening balance ;
- (ii) the estimated receipts under section 7 and from other sources ; and
- (iii) the proposed expenditure classified under the heads specified in sub-rule (3) of rule 33 and such other heads as may be settled at a meeting of the Board.

32. Keeping, auditing and publication of accounts—(1) The Board shall keep accounts of all moneys received in and expended out of the Fund during each financial year.

(2) Such accounts shall be examined and audited annually, or at such shorter intervals as the Central Government may require, by auditors appointed by the Central Government in this behalf.

(3) The auditors may disallow any item which has in their opinion been expended out of the Fund otherwise than as directed by or under the Act or these Rules.

(4) If an item of expenditure is disallowed by the auditors, the Central Government may—

- (a) either remit the disallowance made by the auditors ; or
- (b) sanction the expenditure ; or
- (c) direct that the amount be recovered from the person or persons responsible for the expenditure and credited to the Fund, provided that no recovery under this sub-

clause shall be permissible if the expenditure has been incurred in good faith, or

(d) direct that the item disallowed shall be dealt with in such other way as the Central Government may think fit

(5) The audited statement of receipts and expenditure together with the annual report referred to in clause (c) of sub-rule (1) of rule 19 shall be submitted to the Central Government not later than July in each year.

(6) An abstract statement of the accounts together with the auditors' report thereon shall be published annually in the Official Gazette

33. Receipts and Expenditure—(1) The accounts of receipts shall be shown under the following heads —

(a) sum received under section 7,

(b) any other moneys received,

(c) any interest that may have accrued from the investment of such sum or moneys as aforesaid

(2) Total receipts only shall be shown under each of the heads specified in sub-rule (1) and the opening balance, if any, shall also be stated.

(3) Accounts of expenditure shall be shown under the following heads. —

(a) administration of the Board

(b) other expenditure connected with the administration of the Act

(c) grant of stowing materials or other assistance for stowing operations to owners, agents or managers of coal mines

(d) other measures taken in connection with the furtherance of the objects of the Act

(e) miscellaneous

(4) The closing balance of the year shall be shown at the foot of the accounts on the expenditure side.

(5) In addition to the particulars required by sub-rule (3), separate statements under heads (c) and (d) referred to in that sub-rule shall be drawn up, which shall show the sums paid to each owner, agent or manager of a coal mine independently, or spent otherwise.

LEVY OF EXCISE DUTY¹

In exercise of the powers conferred by section 5 of the Coal Mines Safety (Stowing) Act, 1939 (XIX of 1939) and in supersession of clauses (ii) and (iii) of the notification of the Government of India in the Department of Labour No. M.955 (1), dated the 17th October, 1939, the Central Government is pleased to fix with effect on and from the 1st May 1947—

(1) three annas per ton as the rate at which the duty of excise referred to in the said section shall be levied and collected on coal and soft coke ; and

(2) four annas and six pies per ton as the rate at which the duty of excise referred to in the said section shall be levied and collected on hard coke.

¹ Published in 'Gazette of India', Part 1, dated the 26th April, 1947 under Department of Works, Mines and Powers Notification No. M. 262 (45).

MINES MATERNITY BENEFIT LIGISLATION

International Convention on Maternity Leave.

The Childbirth Convention (No 3)¹ of International Labour Conference provides for 6 weeks' leave from industrial and commercial employment both before and after confinement, income security during that span of time, free medical care and rest intervals for nursing mothers.

Provincial Maternity laws.

The Convention has not been ratified by India, but the first provincial law enforcing compulsory grant of maternity benefits was the Bombay Maternity Benefit Act, 1929, followed by C. P. Maternity Benefit Act, 1930. As a result of the recommendation of the Royal Commission on Labour, Maternity Benefit Acts were passed in Madras, United Provinces, Bengal, Assam, Punjab and Bihar.

Mines Maternity Benefit Act, 1941 (XIX of 1941).

The Central Government passed the Mines Maternity Benefit Act in 1941 (XIX of 1941) extending maternity benefit to women employed in mines. The Act which came into force on 28th December 1942 is the first instance of a Central measure dealing with maternity benefit. The Act prohibits the employment of women workers in mines during four weeks following the day of delivery of a child and provides for payment of maternity benefit at the rate of one half rupee per day for a period up to four weeks of absence before and four weeks after delivery. It provides for a period of one month of authorised absence or leave before confinement. The qualifying period entitling a woman to claim maternity benefit is six months' service preceding the day of delivery. The Act provides for bonus

¹ The Employees' State Insurance Act, 1948 (XXXIV of 1948) passed by the Constituent Assembly of India (Legislative) on the 2nd April, 1948 provides for payment of maternity benefit in conformity with this Convention. But the scope of the Act is limited and applies only to women workers in perennial factories.

in addition to maternity benefit if the woman has been attended by qualified midwife or a trained person at the time of delivery.

Mines Maternity Benefit Rules, 1943.

Under the Mines Maternity Benefit Rules 1943, the qualifications to be possessed by the midwife or trained person are to be determined by the Provincial Governments. Dismissal on the ground of pregnancy is prohibited. Owner or manager of a mine contravening any provision is liable to a fine of Rs. 500/- and a complaint has to be lodged within six months of the date of the alleged offence.

Mines Maternity Benefit (Amendment) Acts 1943 and 1945.

The Act was amended in 1943 (XVIII of 1943) to clarify the meaning of section 5 of the Act. The Act was further amended in 1945 (X of 1945) to afford greater protection to the women working underground in mines. The amending Act extends the prohibition from four weeks to twenty-six weeks after confinement in such case. During the period of ten weeks following the twenty-six weeks, underground employment is permissible for more than four hours a day if a creche is provided in the mine but for not more than four hours at any one time. The employer had to pay to the woman who had worked underground in mine for not less than 90 days in all during a period not exceeding 6 months immediately preceding the date on which the mine owner or manager was informed that she was likely to be delivered of a child within ten weeks, maternity benefit at the rate of Rs. 6/- a week for ten weeks immediately preceding and six weeks following her delivery. The rate of benefit has been increased from 8 annas to 12 annas a day in other case and women doctors have to be provided for such purpose.

Five-Year Labour Plan.

The maternity benefit legislation in India is neither uniform nor universal and there is no provision of free medical aid before, during and after confinement. Under the Five-year Labour Plan, the Government proposes to enact a Central legislation to secure for workers other than those working in factories, the extended scale of benefits provided under the Health Insurance Scheme.

MINES MATERNITY BENEFIT ACT, 1941 (XIX OF 1941)**Arrangement of Sections**

1. Short title, extent and commencement.
2. Definitions.
3. Prohibition of employment of and work by women during certain period
4. Right to obtain leave of absence in pregnancy and after delivery.
5. Right to and liability for payment of maternity benefit.
6. Payment of bonus.
7. Notice of delivery to be given to manager.
8. Payment of maternity benefit.
9. Disposal of maternity benefit in case of death of woman entitled to receive it
10. Prohibition of dismissal during or on account of absence from work owing to confinement
11. Power of Chief Inspector or Inspector to direct payments to be made.
12. Penalty for contravention of Act by a woman.
13. Penalty for contravention of Act by owner or manager.
14. Cognizance of cases.
15. Power of Central Government to make rules.

MINES MATERNITY BENEFIT ACT, 1941 (XIX OF 1941)¹

An Act to regulate the employment of women in mines for a certain period before and after childbirth and to provide for payment of maternity benefit to them.

Whereas it is expedient to regulate the employment of women in mines for a certain period before and after childbirth and to provide for payment of maternity benefit to them ;

¹ For Statement of Objects and Reasons, see Gazette of India, 1941, Pt V, page 139.

The Act has been applied to—

(1) Partially excluded areas in the Province of Orissa, see Orissa Notification No 1005-111-C-244-Com, dated 4th March 1944

(2) Darjeeling district with effect from 14th June 1945, see Bengal Notification No. 2335-Com, dated 8th June 1945.

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Mines Maternity Benefit Act, 1941.

(2) It extends to [all the Provinces of India]¹

(3) It shall come into force on such ²date as the Central Government may, by notification in the official Gazette, appoint

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) “child” includes a still-born child ;

(b) “Chief Inspector”, “Inspector”, “employed”, “mine” and “owner” have the meanings assigned, respectively, to these expressions in section 3 of the Indian Mines Act, 1923 (IV of 1923) ;

(c) “manager” means the manager of the mine appointed in accordance with the provisions of the Indian Mines Act, 1923 (IV of 1923) ;

(d) “maternity benefit” means the payment referred to in section 5 ;

(e) “prescribed” means prescribed by rules made under this Act.

3. Prohibition of employment of, and work by women during certain period.—³[(1)] No owner or manager of a mine shall knowingly employ a woman and no woman shall engage in employment in any mine during the four weeks following the day on which she is delivered of a child.

³[(2) No owner or manager of a mine shall employ any woman below ground in the mine—

(a) if he has reason to believe or if she has informed him that she is likely to be delivered of a child within ten weeks ;

(b) if she has to the knowledge of the management been delivered of a child within the preceding twenty-six weeks ;

¹ These words were substituted for the word “the whole of British India” by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

² Brought into force with effect from the 28th December 1942, see Gazette of India, 1943, Pt. I, p. 32.

³ Section 3 was re-numbered as sub-section (1) and sub-section (2) added by s. 2 of Act 10 of 1945.

(c) during the period of ten weeks following the twenty-six weeks referred to in clause (b)—

(i) for more than four hours in a day unless a *criche* is provided at the mine ;

(ii) in any case, for more than four hours at any one time ;

Provided that where the woman informs the management that the child of which she was delivered has died, the provisions of clause (c) shall not apply after the management has with due diligence verified the correctness of her statement.]

4. Right to obtain leave of absence in pregnancy and after delivery.—(1) If any woman employed in a mine who is pregnant gives notice either orally or in writing in the prescribed form to the manager of the mine that she expects to be delivered of a child within one month from the date of such notice, the manager shall permit her if she so desires to absent herself from work up to the day of her delivery and such absence shall be treated as a period of authorised absence on leave :

Provided that ¹[except in the case of a woman employed below ground in the mine] the manager may, on undertaking to defray the cost of such examination, require the woman to be examined by a qualified medical practitioner or midwife, and, if the woman refuses to submit to such examination or is certified on such examination as not pregnant or not likely to be delivered of a child within one month he may refuse such permission.

²[(2) If any woman employed below ground in a mine gives notice either orally or in writing in the prescribed form to the manager of the mine that she expects to be delivered of a child within ten weeks from the date of such notice, the manager may, on undertaking to defray the cost of such examination, require the woman to be examined within three days by a qualified medical practitioner or midwife, and shall permit her if she so desires to absent herself from work in any capacity in the mine prior to the said examination, and unless he obtains a certificate that the woman is not pregnant or not likely to be delivered of a child within ten weeks or the woman refuses to submit to such examination, up to the day of her delivery, and such absence shall be treated as a period of authorised absence on leave.

¹ Inserted by s. 3 of Act 10 of 1945

² Substituted for original sub-section (2), *ibid.*

(3) The examination referred to in the proviso to sub-section (1) or in sub-section (2) shall, if the woman so desires, be carried out by a woman

(4) The absence of a woman in the period during which she is entitled to maternity benefit under this Act shall be treated as authorised absence on leave.]

5. Right to and liability for payment of maternity benefit.

—¹[(1)] Every woman ²[other than a woman to whom the provisions of sub-section (2) apply] employed in a mine who has been continuously employed in that mine or in mines belonging to the owner of that mine for a period of not less than six months preceding the date of her delivery shall, if she complies with the conditions imposed by this Act, be entitled to receive, and the owner of the mine shall be liable to make to her, in accordance with the provisions of this Act, a payment at the rate of ³[twelve annas] a day for every day⁴ * * * during the four weeks immediately preceding and including the day of her delivery and for each day of the four weeks following her delivery. ⁵[Provided that no such payment shall be made for any day on which she attends work and receives payment therefor during the four weeks preceding her delivery]

¹[(2) Every woman who has worked below ground in a mine or mines of the same owner for not less than ninety days in all during a period not exceeding six months immediately preceding the date on which clause (a) of sub-section (2) of section 3 becomes applicable to her case shall, if she complies with the other conditions imposed by this Act, be entitled to receive, and the owner of the mine shall be liable to make to her, in accordance with the provisions of this Act, a payment at the rate of six rupees a week for the ten weeks immediately preceding her delivery and for the six weeks following her delivery.]

Explanation.—Periods of casual absence as defined by rules made under section 15 or authorised absence on account of illness or leave shall count as employment in determining whether employment has been continuous.

¹ Section 5 was re-numbered as sub-section (1) and sub-section (2) added by s. 4 of Act 10 of 1945.

² Inserted, *ibid.*

³ Substituted, *ibid.*

⁴ Certain words omitted by s. 2 of Act 18 of 1943.

⁵ Added, *ibid.*

6. Payment of bonus.—(1) The Central Government may by rules made under section 15 provide that a woman entitled to maternity benefit under this Act shall, if at the time of her delivery she utilized the services of a qualified midwife or other trained person, receive in addition to the maternity benefit due to her a bonus not exceeding in amount three rupees :

Provided that she shall not receive such bonus if at the place chosen by her for her confinement she would have been entitled free of charge to the services of a qualified midwife or other trained person provided by the owner of the mine.

(2) Such rules may further provide for the determination by the Provincial Government of the amount of the bonus, and of the qualifications which shall be possessed by qualified midwives and other trained persons for the purposes of this section.

7. Notice of delivery to be given to manager.—A woman entitled to maternity benefit under this Act, unless she has given the notice referred to in sub-section (1) ¹[or sub-section (2) as the case may be,] of section 4, shall on being delivered of a child give notice of her delivery in the prescribed manner to the manager before the expiry of seven days from the date of her delivery, and shall before the expiry of six months from such date furnish proof of the prescribed nature to the manager both of her delivery and of the date of her delivery :

Provided that a woman giving notice under section 4 or this section may therein nominate a person for the purposes of sub-section (2) of section 9.

8. Payment of maternity benefit.—(1) Where a woman entitled to maternity benefit has given the notice referred to in sub-section (1) of section 4 and has obtained permission to absent herself from work up to the date of her delivery, the manager shall either at once or within three days pay to her maternity benefit for four weeks in advance.

²[(1A) Where a woman entitled to maternity benefit has given the notice referred to in sub-section (2) of section 4, the manager shall within three days pay to her maternity benefit for ten weeks in advance, unless, within the said three days as a result of the examination referred to in that sub-section, he obtains a certificate

¹ Inserted by s. 5 of Act 10 of 1945.

² Inserted by s. 6, *ibid.*

that she is not pregnant or not likely to be delivered of a child within ten weeks or the woman refuses to submit to such examination.]

(2) A woman entitled to maternity benefit who has been delivered of a child shall, on furnishing the proof referred to in section 7.—

(a) if she has received an advance payment under sub-section

(1) ¹[or sub-section (1A)], be paid the balance of the maternity benefit due to her at the end of the fourth week from the date of her delivery or within three days of the furnishing of proof, whichever date is later ;

(b) if she has received no such advance payment,—

(i) if the proof is furnished, before the end of the fourth week from the date of delivery, be paid at once or within three days so much of the maternity benefit as is then due to her, and be paid the balance at the end of the said fourth week.

(ii) if the proof is furnished after the end of the fourth week from the date of delivery, be paid at once or within three days the whole amount of the maternity benefit due to her

9. Disposal of maternity benefit in case of death of woman entitled to receive it. —(1) If a woman entitled to maternity benefit who has received an advance under sub-section (1) ¹[or sub-section (1A)] of section 8 dies before being delivered of the child, the advance shall not be recoverable.

(2) If a woman entitled to maternity benefit having been delivered of a child dies before payment of the maternity benefit, or, where an advance under sub-section (1) ²[or sub-section (1A)] of section has been made, of the balance of the maternity benefit due to her is made, the amount due to her up to the date of her death shall, on the prescribed proof of the birth and date of the birth of the child and of the death and date of death of the woman being furnished at any time before the expiry of six months from the date of delivery, be paid if the child is living to the person who undertakes the care of the child, and if the child is not living to the person nominated by her under the proviso to section 7 or if she has made no such nomination to the legal representative of the deceased woman.

¹ Inserted by s. 7 of Act 10 of 1945.

10. Prohibition of dismissal during or on account of absence from work owing to confinement.—(1) When a woman absents herself from work in accordance with ¹[sub-section (1) of section 3 or in circumstances under which in accordance with this Act the absence is to be treated as authorised absence on leave], it shall be unlawful for the manager to dismiss her during or on account of such absence, or to give notice of dismissal on such a day that the notice will expire during such absence.

(2) The dismissal of a woman at any time within six months before she is delivered of a child, if the woman but for such dismissal would have been entitled to maternity benefit under this Act, shall not have the effect of depriving her of that maternity benefit if the Chief Inspector is satisfied that her dismissal was without sufficient cause.

11. Power of Chief Inspector or Inspector to direct payments to be made.—(1) Any woman claiming that maternity benefit to which she is entitled under this Act and any person claiming that a payment due under sub-section (2) of section 9 is improperly withheld may make a complaint to the Chief Inspector or any Inspector ²[or any other officer authorised in this behalf by the Central Government].

(2) On receipt of such complaint or on his own motion without any such complaint being made, the Chief Inspector or Inspector or ²[other officer] may make inquiry or cause an inquiry to be made, and if satisfied that a payment has been wrongfully withheld may direct the payment to be made in accordance with his orders.

12. Penalty for contravention of Act by a woman.—Any woman who does any work for which she receives payment in cash or kind after she has been permitted under sub-section (1) of section 4 to absent herself from work, or who engages in employment in any mine in contravention of ³[sub-section (1) of section 3], shall be punishable with fine which may extend to ten rupees, and, if she is entitled to maternity benefit under this Act shall forfeit her right to any maternity benefit not already paid to her.

13. Penalty for contravention of Act by owner or manager.—(1) Any owner or manager of a mine, who contravenes any pro-

¹ Substituted by s. 8 of Act 10 of 1945.

² Inserted by s. 9, *ibid.*

³ Substituted by s. 10, *ibid.*

vision of this Act, for which no express penalty is provided, shall be punishable with fine which may extend to five hundred rupees.

(2) The Court imposing the fine may, if the contravention has resulted in depriving a woman of any maternity benefit due to her, order the whole or any part of the fine when paid to be applied in payment of compensation to the woman for any loss caused to her by the contravention of the provision on account of which the fine has been imposed, and an Appellate Court or the High Court in exercise of its powers of revision may also make such order.

14. Cognizance of cases.—(1) No prosecution under this Act shall be instituted except by or with the sanction of the Chief Inspector ¹[or of an officer authorised in this behalf by the Central Government].

(2) No Court inferior to that of a Magistrate of the first class shall try an offence punishable under this Act or any rule made thereunder

(3) No Court shall take cognizance of an offence punishable under this Act or any rule made thereunder, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed :

Provided that in computing the said period of six months any time spent in obtaining the sanction² * * * required by sub-section (1) shall be excluded.

15. Power of Central Government to make rules.—(1) The Central Government may, subject to the condition of previous publication, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) require the maintenance of registers and records for purposes of this Act and prescribe the form thereof ;
- (b) prescribe the form of the notices referred to in section 4 and section 7, and require mines to supply copies thereof to women workers ;
- (c) regulate the examination of women ³[referred to in] section 4, and the grant of the certificates therein referred to ;

¹Added by s. 11 of Act of 10 of 1945.

² Certain words omitted, *ibid.*

³ Substituted by s. 12, *ibid.*

- (d) prescribe the nature of and the method of furnishing the proof referred to in section 7, section 8 and section 9 ;
- (e) regulate the manner of applying for and paying maternity benefit ,
- (f) assign duties to, and regulate the powers of the Chief Inspector and Inspectors, ¹[and the officers authorised by the Central Government referred to in section 11 and sub-section (1) of section 14] for the purposes of this Act

(3) Any rule made under this section may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

16. Abstract of this Act and the rules made thereunder to be exhibited in mines.—(1) The manager of every mine in which women are employed shall cause an abstract in the local Indian language of the provisions of this Act and of the rules made thereunder to be exhibited in the mine in such manner that they may come to the notice of every woman employed in the mine.

(2) For any contravention of the provisions of this section the manager shall be punishable with fine which may extend to one hundred rupees.

17. Power of Central Government to exempt mines from operation of Act.—The Central Government may, by notification in the official Gazette, exempt any mine or class of mines from the operation of this Act

18. Act binding on Crown.—The provisions of this Act shall be binding on the Crown.

MINES MATERNITY BENEFIT RULES, 1943

Contents

1. Short title.
2. Definitions
3. Muster Roll
4. Form of notice under section 4.
5. Form of notice under section 7.
6. Supply of forms.
7. Medical examination.

¹ These words were inserted by Act 10 of 1945.

8. Casual absence.
9. Proof.
10. Payment of Maternity Benefit.
11. Records.
12. Bonus.
13. Duties and Powers of the Chief Inspector and Inspectors.
14. Penalty.
15. Annual returns.

MINES MATERNITY BENEFIT RULES, 1943¹

In exercise of the powers conferred by section 6 and section 15 of the Mines Maternity Benefit Act, 1941 (XIX of 1941), the Central Government is pleased to make the following rules, the same having been previously published as required by sub-section (1) of section 15 of the said Act, namely :—

1. *Short title*.—These rules may be called the Mines Maternity Benefit Rules, 1943.

2. *Definitions* —In these rules, unless there is anything repugnant in the subject or context,—

- (a) “the Act” means the Mines Maternity Benefit Act, 1941 (XIX of 1941) ,
- (b) “Form” means a form appended to these rules ;
- (c) “muster roll” means a muster roll maintained under Rule 3 ;
- (d) “Section” means a Section of the Act.
- (e) “Inspector” means an Inspector as defined in section 2 of the Act, and includes an officer authorised for the purposes of Section 11 of sub-section (1) of section 14 of the Act by the Central Government.

3. *Muster Roll* —(1) Every owner or manager of a mine in which women are employed shall prepare and maintain a master roll and shall enter the following particulars in such muster roll namely :—

- (a) Name of mine ;
- (b) Name of woman and her father’s (or, if married, husband’s) name ;
- (c) Nature of work ;

¹ These Rules were published under Notification No. M 1285 dated the 7th January, 1943.

- (a) dates with month and year in which she is employed and not employed ;
- (c) date on which the woman gives notice under section 4 ;
- (f) date of production of a medical certificate under the said section ;
- (g) date of birth of child ;
- (h) date on which the woman gives notice, if any, under section 7 ;
- (i) date of production of proof of birth ;
- (j) date of production, if any of proof of death of a woman worker ;
- (k) date with the amount of payment of first instalment of maternity benefit ;
- (l) date with the amount of payment of subsequent instalment of maternity benefit ;
- (m) date of payment of bonus, if any, under Rule 12 ;
- (n) if the woman dies, the name of the person to whom maternity benefit was paid, the amount thereof, and the date of payment ;
- (o) name of the person nominated by the woman under the proviso to section 7 ;
- (p) remarks column for the use of the Inspector.

(2) All entries in the muster roll shall be made in ink and maintained up to date, and the Inspector may inspect it on the premises at any time during the working time of the mine.

(3) The employer may enter in the muster roll such other particulars as he may wish for any other purpose.

4. Form of notice under section 4.—The written notice referred to in section 4 shall be in Form "A".

5. Form of notice under section 7.—The notice referred to in section 7 shall be in Form B.

6. Supply of forms.—The Manager shall supply to the woman, at her request, free of cost, copies of Forms A and B.

7. Medical Examination.—(1) The certificate referred to in section 4 shall be in Form D.

(2) Medical practitioners and midwives referred to in these rules shall have qualifications not less than those qualified to assist at delivery for the purposes of section 6.

8. Casual absence.—For purpose of explanation to section 5, absence from employment up to a maximum period of 26 days during

the six months proceeding the date of delivery shall be treated as casual leave.

9. Proof.—The fact that a woman has been confined or is dead shall be proved by the production either of a certificate to that effect from a qualified medical practitioner or of a certified copy of an extract from a birth and death register maintained under the provisions of any law.

10. Payment of Maternity Benefit —(1) Payment against a claim of maternity benefit shall be made by the manager to the woman concerned, or to a person nominated by her in writing, or in the case of her death to the person entitled to it under sub-section (2) of section 9.

In case of doubt the amount may be paid by the manager to the Chief Inspector who shall pay it to the person, who, in his opinion, is entitled to receive it.

(2) Whenever the payment referred to in sub-rule (1) is made, a receipt shall be obtained by the manager from the person to whom the payment is made in Form C. Where the amount has been paid to the Chief Inspector, the receipt shall be supplied to the manager by the Chief Inspector.

11. Records.—Records relating to the payment of maternity benefit kept under the provisions of the Act or these rules shall be preserved for a period of two years from the date of their preparation.

12. Bonus —(1) Subject to the provisions of sub-section (1) of section 6, a bonus of three rupees shall be paid by the manager to the woman entitled to maternity benefit under the Act.

(2) Application for bonus shall be made by the woman entitled to maternity benefit within four weeks immediately following the day of delivery.

(3) The application referred to in sub-rule (2) shall be accompanied by a certificate from the qualified midwife or other trained person declaring that woman employee utilised the services of that midwife or trained person.

(4) The qualifications to be possessed by qualified midwives and other trained persons for the purposes of section 6 shall be determined by the Provincial Government.

13. Duties and Powers of the Chief Inspector and Inspectors.—(1) The Chief Inspector shall have jurisdiction, and shall be respon-

sible for the due administration of the Act and these rules throughout the Provinces.

(2) Every Inspector shall be responsible for the due observance of the Act and these rules within the area assigned to him by the Chief Inspector.

(3) The Chief Inspector and Inspectors shall have power, within their respective jurisdictions:—

(a) to require the production of and to examine, such records as are maintained in the mine under the Act or these rules ;

(b) to make such enquiries and to require the production of such papers or documents as may be necessary for the purpose of ascertaining whether the provisions of the Act and of these rules have been or are being properly carried out in any mine, provided that he shall not require any owner or manager to answer any question, or give any evidence, tending to criminate himself

(4) Every notice given under sub-section (1) of section 4 or under section 7 and every receipt for maternity benefit or bonus paid to any person under the provisions of the Act or of these rules shall, on demand, be produced before the Chief Inspector or an Inspector

(5) Without prejudice to the generality of sub-rules (1) and (2), the Chief Inspector or an Inspector shall at each inspection of a mine see—

(a) Whether due action has been taken on every notice given under section 4 or sub-section (4) or under section 7,

(b) Whether the muster roll prescribed under Rule 3 is correctly maintained ;

(c) Whether there have been any cases of dismissal or notice of dismissal in contravention to section 10 since the last inspection ;

(d) whether sections 3 and 8 and sub-section (1) of section 16 have been complied with.

(6) An Inspector may issue orders in writing to the owner or manager asking for the correction of all irregularities against the Act or these rules noticed by him.

14. Penalty.—Any person who contravenes any of the provisions of Rules 3, 6, 10, 11, 12 and 13 shall, on conviction be punishable with fine which may extend to fifty rupees.

15. Annual returns.—(1) The owner of any mine to which the Act applies shall on or before the 21st day of January in each year submit to the Chief Inspector a return in each of the Forms E, G, and H giving information as to the particulars specified in respect of the preceding year.

(2) If the owner of a mine to which the Act applies sells, abandons or discontinues the working of the mine, he shall, within one month of the date of sale or abandonment, or four months of the date of discontinuance, as the case may be, submit to the said Chief Inspector a further return in each of the said forms in respect of the period between the end of the preceding year and the date of sale, abandonment or discontinuance.

(3) If any person, required by this rule to submit any return fails to do so or submits a return which is incomplete or wrong in materials or in any way calculated to mislead, he shall be liable to a fine which may extend to fifty rupees.

FORM A.

[SEE RULE 4]

Notice under section 4 of the Mines Maternity Benefit Act, 1941.

Name of owner of mine... .. I, wife/daughter of, employed as at mine, hereby give notice that I expect to be confined within one month next following from the date of this notice and that I will absent myself from the mine with effect from..

*For the purpose of section 9 (2), I hereby nominate (name and full address of the nominee to be given) to receive maternity benefit due to me in case of my death.

Signature or thumb impression

Signature of an attester in case the woman is not able to sign, and affixes thumb impression.

Address

To

The Manager,

(Name of mine and full postal address)

* Strike out where not applicable

FORM B.

[SEE RULE 5.]

Notice under section 7 of the Mines Maternity Benefit Act, 1941.

Name of owner of mine..... I, wife/daughter
of....., employed as.....mine, hereby give
notice that I gave birth to a child on the (date).....

* For the purpose of section 9 (2), I hereby nominate.....
.....(name and full address of the nominee to be
given) to receive maternity benefit due to me in case of my death.

Given this day of 19 .

Signature or thumb impression

Signature of an attester in case the
woman is not able to sign, and
affixes thumb impression.

Address

To

The Manager,
(Name of mine and full postal address)

FORM C.

[SEE RULE 10 (2).]

Form of receipt for maternity benefit.

Name of the mine..... I,the
undersigned *a woman employee/the nominee of.....
woman employee/acting on behalf of.....woman
employee/legal representative of.....woman employee
deceased in.....(name of mine) at.....in.....
district received maternity benefit under the Mines Maternity Benefit
Act, 1941, from the Manager of the mine referred to above, as
detailed below :—

*Strike out where not applicable.

Rs . . . , being the first instalment after confinement paid on . . .
 Rs . . . , being the second instalment after confinement paid on . . .
 Rs... . , being the bonus under section 6 of the Act paid on . . .
 My

— confinement

Her

.... . took place on . . . In consequence I . . .
 Her nominee, or acting on her behalf being
 her legal representative have received
 the aforesaid amounts prescribed in section 5¹ (and section 6) of the
 Mines Maternity Benefit Act, 1941

Signature or thumb impression of

woman employee

the nominee or the person working on behalf of the woman
 employee

the legal representative of the woman employee

Signature of an attester in case the woman is not able to sign and
 affixes thumb impression.

Date.. . . .

¹Unnecessary portions to be struck off

FORM D.

[SEE RULE 7 (1)]

*Certificate referred to in section 4 (1) of the Mines
 Maternity Benefit Act, 1941.*

This is to certify that I examined wife/
 daughter of a woman employee in . . . mine at in the
 district of on (date) and . . . found
 can not discover that she is
 pregnant and is expected to be delivered of a child within . . .
 and
 (months—days) from the above mentioned date
 or

Date.... .

Signature, qualification and designa-
 tion of medical practitioner or
 midwife.

* Strike out when not applicable.

FORM E

Annual return for the year ending on the 31st December, 19

1. Name of mine
2. Situation of the mine—
Mazza
District
Province
Nearest Railway Station
3. Date of opening of the mine
4. Date of closing, if closed
5. Postal address of mine
6. Name of owner Postal address of owner.
7. Name of managing agent, if any, postal address of managing agent
8. Name of agent or representative of owner
Postal address of representative of owner
9. Name of manager.
Postal address of manager
10. (a) Name of medical officer attached to the mine.
(b) Qualification of officer attached to the mine
(c) Is he resident at the mine?
(d) If a part-time employee, how often does he pay visits to the mine
11. (a) Is there any hospital at the mine?
(b) If so, how many beds are provided for women employees?
(c) Is there a lady doctor?
(d) If so, what are her qualifications?
(e) Is there a qualified midwife?
(f) Has any creche been provided?

Signature of owner
Date

FORM F.

*Employment, dismissal, payment of bonus, etc.; of women
for the year ending on 31st December, 19*

Place of employment.	Aggregate number of daily attendance during the year of women permanently or temporarily employed	Number of women who worked for a period of not less than six months [section 5(1)]	Number of women who gave notice under section 4.		Number of cases where free medical examination was offered by the manager (proviso to section 4).	Number of cases where the women refused to submit to such examination (proviso to section 4).	Number of cases where the manager refused permission under proviso to section 4
	(1)	(2)	Orally. (4)	In-writing. (5)	(6)	(7)	(8)
In open workings	—	—	—	—	—	—	—
On the surface	—	—	—	—	—	—	—
Total	—	—	—	—	—	—	—

Place of employment	Number of cases where services of a qualified midwife or other trained person were offered by the manage- ment free of charge [proviso to sec- tion 6(1)].	Number of cases where the manage- ment granted permission to a woman to absent herself from work (section 1)	Number of cases where the manage- ment granted permission to a woman to absent herself from work (section 1)	Number of claims for bonus paid [sec- tion 6(1)]	Number of claims for bonus rejected	Number of women dismissed while working.	Number of women who were fine when employed [section (2)]	Amount of fine imposed in each case	Remarks
	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)
In open workings	—	—	—	—	—	—	—	—	—
On the surface	—	—	—	—	—	—	—	—	—
Total	—	—	—	—	—	—	—	—	—

N.B.—Full particulars of each case and reasons for the action taken under headings (8), (13), (14) and (15) should be given in the Appendix below:—

Signature of owner.

Date 19

APPENDIX

FORM G

Details of payment made during the year ending 31st December 19

	Name of person to whom paid	Amount paid
1. Date of payment		
2. Woman employee.		
3. Person who undertook the care of the child.		
4. Nominee of the woman		
5. Legal representative of the deceased woman.		
6. Instalments under section 8 (1)		
7. Balance of the maternity benefit under section (2)		
8. Under section 9 (2).		
9. Under section 6 (1).		
10. Number of women workers who absconded after receiving the first instalment of maternity benefit under section 8 (1)		
11. Cases where claims were contested in a court of law.		
12. Result of such case.		
13. Remarks		

FORM H.

Prosecution during the year ending 31st December, 19 .

Place of employment of the women employee	Number of cases instituted	Number of cases resulted in conviction	Remarks.
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In open workings

On the surface

N.B.—Reasons for prosecution should be given in full in the Appendix below:—

Signature of owner

Dated

APPENDIX

MINES CRECHE RULES, 1946

Contents

1. Short title.
2. Definitions.
3. Provision of creches.
4. Standards of creches.
5. Use of the creche.
6. Medical arrangements.
7. Provision of staff.
8. Maintenance of records.
9. Inspection of creches.

MINES CRECHE RULES, 1946.¹

In exercise of the powers conferred by sub-section (bb) of section 30 of the Indian Mines Act, 1923 (IV of 1923), the Central Government is pleased to make the following rules:—

1. Short title.—These rules may be called the Mines Creche Rules, 1946.

2. Definitions.—In these rules, unless there is anything repugnant in the subject or context,—

(a) “Competent authority” means, in respect of coal mines, the Coal Mines Welfare Commissioner and in respect of other mines,

¹ These Rules were published under Government of India Department of Labour Notification No. LMW. 5(7)/46 dated the 23rd July, 1946.

the Chief Inspector of Mines, and includes any person authorised in writing by the said Commissioner or Inspector in this behalf,

(b) "Creche" means a room or rooms with ancillary accommodation reserved for the use of children, under six years of age of women employed in a mine

(c) "Medical Officer in charge" means a qualified medical practitioner employed whether on a whole time or part time basis, by the owner of a mine to perform the duties assigned to such officer by these rules.

3. Provision of creches.—(a) The owner of every mine shall construct thereat a creche in accordance with plans prepared in conformity with these rules and previously approved by the competent authority

(b) Such creche shall be constructed within nine months of the date of publication of these rules, provided that where land has to be acquired for the purpose, the competent authority may extend the time limit to a period not exceeding twelve months from the said date

(c) If in any case the competent authority is satisfied that by reason of a shortage of building material or of labour the owner of a mine is unable to provide within nine months a creche in accordance with the specifications in these rules, he may approve of the erection of a temporary structure to be replaced by a permanent structure within such time as he may prescribe

(d) If in any case the competent authority is satisfied that no inconvenience will be caused to the employers concerned, if a single creche is provided to serve neighbouring mines, he may authorise the owners of such mines to provide jointly a single creche and on such conditions as he may prescribe.

4. Standards of creches.—Every creche shall conform to the following standards of construction.—

- (i) It shall be contained in one building, built of brick and mortar, adequately lighted and properly ventilated and affording effective protection from all kinds of weather ;
- (ii) It shall be constructed on a suitable site selected by the colliery management with the previous approval of the competent authority ;
- (iii) The flooring shall be of cement or stone and the ceiling shall not be less than 12 feet high from the floor ;

- (iv) The interior walls shall be lime-washed once a year and the wood work shall be painted or varnished once every three years ;
- (v) It shall be maintained in a clean and sanitary condition to the satisfaction of the inspection staff ;
- (vi) Medicines for first aid, and a number of cradles or beds, bed-sheets linen, bedding, feeding bottles, utensils and toys for the use of children shall be maintained for each creche, on a scale approved by the competent authority, provided that if the competent authority is satisfied that the owner of any mine is for good reasons unable to provide an adequate number of articles mentioned in the rule, he may condone the deficiencies ;
- (vii) The latrines shall be maintained on a scale prescribed by the competent authority and in a sanitary condition to the satisfaction of the inspecting staff and the closed bath room shall be equipped with either a sink or masonry tubs with an adequate quantity of water on a scale approved by the competent authority ;
- (viii) A supply of drinking water shall be maintained for each creche on a scale approved by the competent authority ;
- (ix) The creche shall remain open at all times, both by day and by night when women employees are working at the mine and it shall be properly lighted at night.

5. *Use of the creche.*—The use of the creche shall be restricted to children, their attendants, the supervisory staff and the mothers of the children, and no male worker shall be permitted to enter a creche.

6. *Medical arrangements.*—(1) A medical examination of the children attending the creche shall be made every month by a qualified medical practitioner and a record of such examinations shall be maintained.

(2) At intervals prescribed by the competent authority, a medical examination of the nursing mothers attending the creche shall be made by a qualified medical practitioner, if possible a woman ; and when the examination is conducted by a male doctor it shall be made in the presence of the creche nurse.

(3) The Medical Officer in charge of the mine shall be responsible for the general supervision of the creche.

7. *Provision of staff.*—At every creche the owner of the mine shall appoint supervisory and inferior staff on a scale approved by the competent authority.

8. *Maintenance of records*—(a) A register giving particulars of children attending a creche, including their dates of birth, shall be maintained in the form prescribed by the competent authority.

(b) A register of complaints shall be maintained for inspection by the Medical Officer in charge and by the management of the colliery.

9. *Inspection of creches*—The competent authority shall be responsible for the inspection of creches at mines

MICA MINES LABOUR WELFARE LEGISLATION

Labour Investigation Committee on Mica Miners.

There are over 60,000 miners working in Mica and the working and living conditions there are most deplorable. An *ad hoc* survey was made by a member of the Labour Investigation Committee¹ who submitted his Report making a number of recommendations which included the working out of a comprehensive welfare scheme designed to improve the standard of living of the workers and to secure for them the requisite housing, educational, medical and other facilities. After the publication of the Report, the Government of India thought the urgent necessity of initiating legislative scheme of welfare measures for amelioration of the living and working conditions of the labour employed in mica mining industry.

Mica Mines Labour Welfare Act.

After consulting the matter with the mine owners, the Government of India introduced a Bill in the Legislative Assembly on 12th March, 1946 to constitute a fund for financing the activities for promoting the welfare of labour employed in mica mining industry and the Mica Mines Labour Welfare Fund Act was passed in 1946 (XXII of 1946).

The Act provides for a levy of cess on all mica, in whatever state, exported from India, at a rate not exceeding six and one

¹ Report on Labour Conditions in Mica Mining and Mica Manufacturing Industry (Delhi, 1946)

quarter per cent *ad valorem*, as may be fixed from time to time by the Central Government. For the present the rate is being notified at two and one half per cent *ad valorem* with effect from 1st April, 1949 to 1st April, 1950

Mica Mines Labour Welfare Fund & Advisory Committee.

The Act provides for constitution of the Mica Mines Labour Welfare Fund to which the cess collected as aforesaid will be credited to meet the expenditure incurred in connection with the measures for promoting the welfare of the labour employed in mica mining industry, such as, the provisions for public health, sanitation and medical facilities, water supplies, adequate nutrition, housing, transport to and from work, educational and recreational facilities and for general improvement of social conditions. The Fund will be administered by the Central Government which, in consultation with the Advisory Committees set up under the Act with the equal representatives of employers and employees, may make grants to Provincial Governments, local authority or owner of mica mine in aid of any approved welfare scheme.

Five-Year Labour Programme.

Under the Five-year Labour Programme, the Government of India have framed Rules for Bihar and Madras under the Act and set up administrative machinery for planning and executing the necessary ameliorative measures

MICA MINES LABOUR WELFARE FUND ACT, 1946

(XXII of 1946)

Arrangement of Sections

1. Short title and extent
2. Imposition and collection of a cess.
3. Mica Mines Labour Welfare Fund.
4. Advisory Committee.
5. Appointment and powers of officers
6. Power to make rules.

MICA MINES LABOUR WELFARE FUND ACT, 1946¹
(XXII OF 1946)

*An Act to constitute a fund for the financing of activities to
promote the welfare of labour employed in the mica
mining industry*

Whereas it is expedient to constitute a fund for the financing of activities to promote the welfare of labour employed in the mica mining industry,

It is hereby enacted as follows:—

1. Short title and extent.—(1) This Act may be called the Mica Mines Labour Welfare Fund Act, 1946

(2) It extends to “[all the Provinces of India]

2. Imposition and collection of a cess.—(1) With effect from such date² as the Central Government may, by notification in the official Gazette, appoint in this behalf, there shall be levied and collected, as a cess for the purposes of this Act, on all mica, in whatever state, exported from “[the Provinces] a duty of customs at such rate, not exceeding six and one-quarter *per centum ad valorem*, as may from time to time be fixed by the Central Government by notification in the official Gazette:

Provided that until the 1st day of April, 1947, the rate of duty so fixed shall not exceed two and one-half *per centum ad valorem*.

(2) On the last day of each month or as soon thereafter as may be convenient, there shall be paid to the credit of a fund to be called the Mica Mines Labour Welfare Fund (hereinafter referred to as the Fund) the proceeds of the duty of customs recovered during that month after deduction of the expenses, if any, for collection and recovery.

3. The Mica Mines Labour Welfare Fund.—(1) The Fund shall be applied by the Central Government to meet expenditure incurred in connection with measures in the opinion of the Central

¹ For Statement of Objects and Reasons, see the Gazette of India, Part V, dated the 6th April 1946 and for Report of the Select Committee, see the Gazette of India, Part V, dated the 20th April 1946

² These words were substituted for the words “the whole of British India” by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

³ 2½% *ad valorem* duty levied from 1st April 1947, Gazette of India dated the 17th April, 1947, Notification No. LMW 514).

⁴ These words were substituted for the words “British India” by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

Government necessary or expedient to promote the welfare of labour employed in the mica mining industry.

(2) Without prejudice to the generality of sub-section (1), the Fund may be utilised to defray—

(a) the cost of measures for the benefit of labour employed in the mica mining industry directed towards—

(i) the improvement of public health and sanitation, the prevention of disease, and the provision and improvement of medical facilities,

(ii) the provision and improvement of water supplies and facilities for washing,

(iii) the provision and improvement of educational facilities

(iv) the improvement of standards of living, including housing and nutrition, the amelioration of social conditions and the provision of recreational facilities,

(v) the provision of transport to and from work ;

(b) the grant to a Provincial Government, a local authority or the owner, agent or manager of a mica mine, of money in aid of any scheme approved by the Central Government for any purpose for which the Fund may be utilised ;

(c) the cost of administering the Fund, including the allowances, if any, of members of the Advisory Committees constituted under section 4, and the salaries and the allowances, if any, of officers appointed under section 5 ;

(d) any other expenditure which the Central Government may direct to be defrayed from the Fund

(3) The Central Government shall have power to decide whether any particular expenditure is or is not debitable to the Fund, and its decision shall be final.

(4) The Central Government shall publish annually in the official Gazette report of the activities financed from the Fund, together with an estimate of receipts and expenditure of the Fund and a statement of accounts.

4. Advisory Committees. —(1) The Central Government shall constitute two Advisory Committees, one for the Province of Madras and one for the Province of Bihar, to advise the Central Government on any matters arising out of the administration of this Act or the Fund.

(2) The members of the Advisory Committees shall be appointed by the Central Government, and shall be of such number and chosen in such manner as may be prescribed by rules made under this Act.

Provided that each Committee shall include an equal number of members representing mica mine owners and workmen employed in the mica mining industry, and that at least one member of each Committee shall be a woman, and at least one member of each Committee shall be a member of the Legislature of the Province concerned.

(3) The Chairman of each Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the official Gazette the names of all members of the Advisory Committees.

5. Appointment and powers of officers.—(1) The Central Government may appoint Inspectors, Welfare Administrators and such other officers as it thinks necessary to administer the Fund or to supervise or carry out the activities financed from the Fund.

(2) Every officer so appointed shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

(3) Any Inspector or Welfare Administrator may—

- (a) with such assistance, if any, as he thinks fit, enter at any reasonable time any place which he considers it necessary to enter for the purpose of supervising or carrying out the activities financed from the Fund, and
- (b) do within such place anything necessary for the proper discharge of his duties.

6. Power to make rules.—(1) The Central Government may, by notification in the official Gazette, make rules to carry into effect the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the making of refunds, remissions and recoveries of the duty of customs imposed by sub-section (1) of section 2 ;
- (b) the composition of the Advisory Committees constituted under section 4, the manner in which the members thereof shall be chosen, the term of office of such members, the allowances, if any, payable to them, and the manner in which the Advisory Committees shall conduct their business ;

- (c) the conditions governing the grant of money from the Fund under clause (b) of sub-section (2) of section 3 ;
- (d) the form of the estimate and statement referred to in sub-section (4) of section 3 ;
- (e) the conditions of service and the duties of all officers appointed under section 5 ;
- (f) the furnishing by owners or agents or managers of mica mines of statistical or other information, and the punishment by fine of failure to comply with the requirements of any rule made under this clause

MICA MINES LABOUR WELFARE FUND (BIHAR AND MADRAS RULES, 1948

Contents

1. Short title and extent.
2. Definitions.
3. Composition of Advisory Committees.
4. Terms of office.
5. Power to co-opt.
6. Resignation.
7. Absence from India.
8. Vacation of office.
9. Disposal of business
10. Time and place of meetings..
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12. Notice of meetings and list of business
13. Advisory Committee to be informed of expenditure.
14. Other matters to be considered by Advisory Committee.
15. Presiding at meetings.
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18. Minutes of meetings.
19. Headquarters of the Advisory Committees.
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24. Schemes of expenditure
25. Distribution of cess.
26. Credit to the Fund
27. Refund and recovery of cess.
28. Conditions of grants to the Government of Madras
29. Statement of Accounts.
30. Statistical and other information to be furnished.

MICA MINES LABOUR WELFARE FUND (BIHAR AND MADRAS) RULES, 1948¹

In exercise of the powers conferred by section 6 of the Mica Mines Labour Welfare Fund Act, 1946 (XXII of 1946), the Central Government is pleased to make the following rules namely:—

1. Short title and extent—(1) These rules may be called the Mica Mines Labour Welfare Fund (Bihar and Madras) Rules, 1948

(2) They extend to the Provinces of Bihar and Madras.

2. Definitions—In these rules, unless there is anything repugnant in the subject or context,—

(1) “the Act” means the Mica Mines Labour Welfare Fund Act, 1946,

(2) “Advisory Committee” means the Advisory Committee constituted under section 4 of the Act,

(3) “Member” means a member of the Advisory Committee present in India.

3. Composition of Advisory Committees—(1) (a) The Committee for the Province of Bihar shall consist of the following members, namely:—

- (i) An Officer to be appointed by the Central Government called the Welfare Commissioner ;
- (ii) The Mica Controller, Bihar ;
- (iii) The Commissioner of Labour, Bihar ,
- (iv) A Member of the Bihar Legislative Council or Assembly nominated by the Central Government on the recommendation of the Government of Bihar ;

¹ These Rules were published in the Gazette of India, Part I, dated the 10th January, 1948 under Ministry of Labour Notification No. LMW 5(8)/46, dated the 2nd January, 1948

- (vi) Three persons nominated by the Central Government, in consultation with the association, if any, representing mica mine owners of Bihar ,
- (vi) Three persons nominated by the Central Government to represent the interests of workmen employed in the mica mining industry of Bihar ,
- (vii) A woman nominated by the Central Government on the recommendation of the Government of Bihar, if no woman has been nominated under clause (vi) ,

(b) The Welfare Commissioner shall be the Chairman of the Advisory Committee for the Province of Bihar and the Vice-Chairman of the Committee shall be appointed by the Central Government from among the other members

(2) (a) The Advisory Committee for the Province of Madras shall consist of the following members, namely :—

- (i) The Collector of Nellore ;
- (ii) The President of the District Board, Nellore ,
- (iii) A Member of the Madras Legislative Council or Assembly nominated by the Central Government on the recommendation of the Government of Madras ;
- (iv) Two persons nominated by the Central Government, in consultation with the associations, if any, representing mica mine owners of Madras ;
- (v) Two persons nominated by the Central Government to represent the interests of workmen employed in the mica mining industry of Madras ;
- (vi) A woman nominated by the Central Government on the recommendation of the Government of Madras, if no woman has been nominated under clause (v)

(b) The Collector of Nellore shall be the Chairman of the Advisory Committee for the Province of Madras and the Vice-Chairman of the Committee shall be appointed by the Central Government from among the other members

4. Terms of office—(1) A nominated member shall, unless, he resigns his office or dies at an earlier date, hold office for a period of 3 years from the date of the notification appointing him a member of the Advisory Committee and shall be eligible for renomination

Provided that an outgoing member may continue in office until the appointment of his successor is notified in the *Gazette of India*.

(2) A member nominated to fill a casual vacancy shall hold office for as long as the member whose place he fills would have been entitled to hold office if the vacancy had not occurred.

5. Power to co-opt—(1) The Advisory Committee may, at any time and for such period as it thinks fit, co-opt any person or persons to the Advisory Committee.

(2) A person co-opted under sub-rule (1) shall exercise all the powers and functions of a member under these rules, but shall not be entitled to vote.

6. Resignation.—A non-official nominated member may resign his office by letter addressed to the Chairman.

7. Absence from India.—(1) Before a non-official nominated member leaves India,—

(a) he shall intimate to the Chairman the date of his departure from and the date of his expected return to India, or

(b) if he intends to be absent from India for a period longer than six months, he shall tender his resignation.

(2) If any nominated member leaves India without taking action as required by sub-rule (1), he shall be deemed to have resigned with effect from the date of his departure from India.

8. Vacation of office.—A nominated member shall be deemed to have vacated his office—

(a) if he becomes insolvent ; or

(b) if he is convicted of any offence which in the opinion of the Central Government involves moral turpitude ; or

(c) if he is absent from meetings of the Advisory Committee for three consecutive meetings without leave of absence from the Chairman ; or

(d) if, in the opinion of the Central Government, it is undesirable that he should continue to be a member of the Committee.

9. Disposal of business.—(1) Every question which the Advisory Committee is required to take into consideration shall be considered either at a meeting or, if the Chairman so directs, by sending the necessary papers to every member for opinion.

(2) When a question is referred to the Advisory Committee for opinion, any member may request that the question be considered at a meeting and thereupon the Chairman may, and if the request is made by five or more members shall, direct that it be so considered.

10. *Time and place of meetings.*—The Advisory Committee shall meet at such places and times as may be appointed by the Chairman.

11. *Remuneration of members.*—Each non-official member, including a non-official member co-opted under rule 5, shall be paid an allowance of Rs. 10 for each meeting of the Advisory Committee or Finance Sub-Committee attended by him, subject to a maximum of Rs. 30 for any one calendar month, and his travelling expenses subject to the condition that they shall not exceed the rates admissible to Central Government servants of the first grade for a journey on tour. Where the journey is performed entirely by road, mileage at the rates admissible to Central Government servants of the first grade shall be paid subject to the condition of furnishing a certificate to the effect that the journey was undertaken by road to avoid loss of time which the journey by rail would have entailed and subject also to the condition that the distance travelled did not exceed 75 miles in a single journey

12. *Notice of meetings and list of business*—(1) Notice of not less than 15 days from the date of posting shall be given to every member of the time and place fixed for each ordinary meeting, and every member shall be furnished with a list of business to be considered at the meeting :

Provided that when an emergency meeting is called by the Chairman such notice shall not be necessary.

(2) No business which is not on the list shall be considered at a meeting without the permission of the Chairman.

13. *Advisory Committee to be informed of expenditure*—A memorandum detailing any grants made or expenditure incurred from the Fund since the last meeting shall be laid before each meeting of the Advisory Committee.

14. *Other matters to be considered by Advisory Committee*—(1) The Advisory Committee shall, besides carrying out its statutory duties, consider and advise upon any matter concerning these Rules, referred to it by the Central or Provincial Government for advice.

(2) The Advisory Committee shall also consider the budget and any matter that may be laid before it by the Chairman. It shall be obligatory on the Chairman to place before the Advisory Committee any matter at the request of not less than five members.

15. *Presiding at meetings.*—The Chairman shall preside at every meeting at which he is present and in his absence the Vice-chairman shall preside.

16. Quorum—No business shall be transacted at a meeting of the Advisory Committee whether an ordinary or emergency meeting unless at least three members having the right to vote are present of whom the Chairman or Vice-Chairman shall be one :

Provided that if at any meeting less than three such members attend, the Chairman may adjourn the meeting to a date not less than seven days later, informing the members present and notifying other members that he proposes to dispose of the business at the adjourned meeting whether there is a quorum or not and it shall thereupon be lawful to dispose of the business at the adjourned meeting irrespective of the number of members attending it.

17. Recommendation by majority.—(1) Every question at a meeting of the Advisory Committee shall be decided by a majority of votes of the members present and voting but the minority shall in all cases have the right of requiring their dissent to be noted.

(2) Every question referred to the members for opinion shall, unless the Chairman in pursuance of sub-rule (2) of rule 9 reserves it for consideration at a meeting, be decided in accordance with the opinion of the majority recording opinion within the time allowed.

(3) In the case of an equal division of votes or opinions the Chairman shall give an additional vote or opinion.

18. Minutes of meetings—(1) The proceedings of each meeting of the Advisory Committee shall be circulated to all members and thereafter recorded in a minute book, which shall be kept for permanent record.

(2) The record of the proceedings of each meeting shall be signed by the Chairman or Vice-Chairman, as the case may be.

19. Headquarters of the Advisory Committees.—(1) The headquarters of the Advisory Committee for the Province of Bihar shall be at such place as may be fixed by the Central Government and of the Advisory Committee for the Province of Madras at such place as may be fixed by the Government of Madras.

(2) The Chairman, Vice-Chairman and Secretary of the Advisory Committee shall be the executive of the Committee and exercise the executive functions of the Committee on behalf of the Committee.

20. Staff of the Advisory Committees.—(1) Subject to the budget provision, and the provisions of rule 24, the Chairman of each Advisory Committee may appoint technical and secretarial staff including a Secretary (who shall ordinarily be a whole-time officer paid from

the Fund) to assist him in carrying out his duties, may fix the scale of establishment and the salaries and allowances and determine other conditions of service of officers and servants employed by him including the security to be taken from them :

Provided that the creation of a post carrying a salary exceeding Rs. 100 per month for more than six months and appointment thereto shall require the previous sanction of the Central Government .

Provided further that the scales of pay of servants appointed by the Chairman under this sub-rule shall be in accordance with the scales sanctioned by the Central Government for similar posts.

(2) Persons appointed by the Chairman and paid from the Fund shall not be deemed to be Government servants notwithstanding that the Central Government may direct that any service rules applicable to Government servants may apply with or without modifications to such persons.

(3) The Chairman may authorize the technical and secretarial staff to give technical and secretarial assistance to the Finance Sub-Committee or to any other authority exercising advisory functions in connection with the Act or to any person or authority expending grants obtained from the Fund.

21. Finance Sub-Committee.—(1) The Advisory Committee shall elect from among its members four persons, of whom two shall be persons representing mica mine owners and two representing mica mine workers, to be a Finance Sub-Committee of which the Vice-Chairman of the Advisory Committee who shall be an additional member shall be the President.

(2) The Advisory Committee may at any time co-opt persons to the Finance Sub-Committee and a person co-opted shall exercise all the powers and functions of a member of such Sub-Committee, but shall not be entitled to vote and shall not solely by reason of being so co-opted be a member of the Advisory Committee.

(3) Notice of every meeting to the Finance Sub-Committee shall be sent to the Chairman of the Advisory Committee who may attend such meeting if he so desires, and he does so attend, he shall notwithstanding anything in sub-rule (1) preside and shall be entitled to vote.

(4) The meetings and proceedings of the Finance Sub-Committee shall be governed by the provisions herein contained for regulating the meetings and proceedings of the Advisory Committee in so far as the same are applicable thereto.

22. Duties of the Finance Sub-Committee—The duties of the Finance Sub-Committee shall be to frame schemes of expenditure, to advise on the budget drawn up by the executive of the Advisory Committee and on the accounts of the Advisory Committee and also in regard to all expenditure debitable to the Fund, and to consider all schemes referred to in proviso (ii) to rule 24

23. Budget—(1) The annual budget of the Fund as prepared by the executive of the Committee shall be considered by the Advisory Committee in January of each year. The budget as approved by the Advisory Committee shall be submitted for sanction to the Central Government, which may make such alterations therein as it considers suitable.

Provided that the Advisory Committee for Madras shall submit its budget to the Central Government through the Government of Madras.

(2) The budget to be forwarded to the Central Government shall be accompanied by detailed self-contained notes explaining any new schemes included therein.

24. Schemes of expenditure.—(1) The sanction of the Central Government to the budget shall, if no specific mention is made to the contrary, be deemed to include sanction to expenditure on all the schemes included in the budget.

(2) The Chairman shall have power, subject to the provision in the sanctioned budget, to incur expenditure on administrative staff and welfare schemes :

Provided—

(i) that he shall have no power to sanction any scheme not included in the budget and involving a non-recurring expenditure exceeding Rs. 10,000 or a recurring cost exceeding Rs. 1,000 a year, and

(ii) that any new scheme within these limits shall require the approval of the Finance Sub-Committee before any expenditure on it is incurred.

25. Distribution of cess.—The proceeds of the cess available for distribution shall be distributed by the Central Government among mica producing areas in proportion to their production or in such manner as may be decided in consultation with the Governments of those areas.

¹[**26.** *Credit to the Fund.*—The amount of cess collected shall be credited to the Central Revenue, as soon as it is collected, and an equivalent amount, after deduction of such percentage as the Central Government may fix by notification in the official Gazette shall be transferred simultaneously to the Fund in a special account under the Central Government to be maintained by such officer as the Central Government may appoint in this behalf]

27. *Refund and recovery of cess.*—Refund of cess erroneously levied or paid and recovery of cess short-levied or erroneously refunded shall be made in accordance with the provisions of the Sea Customs Act, 1878 (VIII of 1878) and the rules made thereunder relating to refund, remission and recovery of customs-duties under that Act so far as the same may be applicable.

28. *Conditions of grants to the Government of Madras* —(1) The Central Government shall furnish the Government of Madras not later than the 1st day of July each year with an estimate of the proceeds of the cess likely to be made available for expenditure during the following financial year in the province. The Government of Madras shall inform the Advisory Committee accordingly.

(2) The Government of Madras shall forward to the Central Government the budget submitted by the Advisory Committee not later than the 1st day of October each year. The Central Government may sanction the budget with or without modifications.

(3) The Central Government may give general or specific directions to the Government of Madras for ensuring co-ordination and uniformity in the preparation of welfare schemes and for proper administration thereof.

29. *Statement of Accounts* —The accounts of the Fund shall be maintained and audited in such manner and by such officers as may be approved by the Central Government.

30. *Statistical and other information to be furnished.*—(1) The owner, agent or manager of a mica mine shall furnish such statistics or other information, as the Central Government or any other person authorised by the Central Government in writing in this behalf may by written order require for the purposes of the Act, in such form or manner and within such time as may be specified in the order.

(2) Any owner, agent or manager of a mica mine who without reasonable excuse fails to furnish the statistical or other information

¹ This rule was substituted for the sub-rules (1) and (2) by the Ministry of Labour Notification No. LW 23(1)/48, dated 29th July, 1948

as required under sub-rule (1) or furnishes statistical or other information containing a statement, entry or detail which is not to the best of his knowledge or belief true, shall be punishable with fine which may extend to five hundred rupees.

RATE OF MICA MINES CESS¹

No. LW21(1)48, dated 16-3-49.—In exercise of the powers conferred by sub-section (1) of section 2 of the Mica Mines Labour Welfare Fund Act, 1946 (XXII of 1946), the Central Government is pleased to fix the rate of two and one half per centum *ad valorem* as the rate at which the duty of customs for the purposes of the said Act shall, with effect from the 1st day of April 1949 until the 1st day of April 1950, be levied and collected.

COAL MINES LABOUR WELFARE LEGISLATION

War-time welfare legislation.

According to the Labour Investigation Committee² there were 349,361 workers in mines in 1943. The great majority of these workers are Coal miners.³ The Government of India did not undertake any measure to promote the welfare of these miners before the last war. With the increased demand for coal for wartime industrial production, there was a great demand for labour for mines and the Government realised the necessity to adopt welfare measures in order to increase the worker's productive efficiency. The Central Government promulgated the Coal Mines Labour Welfare Fund Ordinance (Ordinance No. VII of 1944) on 31st January 1944 to provide amenities for the miners and to promote their welfare. The Ordinance provided for establishment of a Fund to finance welfare activities and accordingly the Government instituted a Coal Mines Labour Welfare Fund to undertake activities conducive to the welfare of the coal miners. The Fund which was made up of a levy of excise duty at a rate not exceeding four annas per ton of coal and coke despatched from the collieries, was to be utilised to meet the cost of measures

¹ Published in the Gazette of India, Part I, dated 19-3-49, p. 364

² Labour Investigation Committee, Main Report (Delhi, 1946), p. 27.

³ According to Mr. S. R. Deshpande's Report on an Enquiry into conditions of labour in Coal Mining in India (1946), India has thousand coal mines employing 2,50,000 workers.

for the improvement of nutrition and for the provision for water supply, facilities for washing, medical, educational and recreational facilities and for the general amelioration of the social conditions of these miners. An Advisory Committee was set up for consultation on the administration of the Ordinance.

Coal Mines Labour Welfare Fund Act, 1947 (XXXII of 1947).

On the 11th March 1947, the Government of India introduced Coal Mines Labour Welfare Fund Bill in the Legislative Assembly to make better provision for financing measures for promoting the welfare of coal miners and to repeal the Coal Mines Labour Welfare Fund Ordinance. The Act was passed on 12th April 1947 (XXXII of 1947) and came into force on 14th June 1947. The Act provides for the levy of an excise duty at a rate not less than four annas and not more than eight annas per ton on all coal and coke despatched from collieries in India. The Government fixed the rate at six annas for the present. The Act also provides for establishment of Coal Mines Labour Housing Board and Coal Mines Labour Housing and General Welfare Fund. The proceeds of the duty should be credited to Coal Mines Labour Housing and General Welfare Fund and apportioned under two separate accounts to be called housing account and general welfare account. The Government of India previously decided that one anna and four pies should be apportioned to the housing account and four annas and eight pies to be given to the general welfare account of the Fund. But by a notification dated the 14th May 1949, the Government decided that out of six annas credited to the above fund, four annas should be apportioned to the housing account and two annas to the general welfare account during the year 1949-50.

Housing Scheme of the Government of India.

In the opinion of the Government, a target figure of 50,000 houses should be the aim of the housing scheme in the coal fields and provision should be made for 15,000 houses to be completed before the end of the next financial year. The present housing conditions in coal mines are extremely unsatisfactory and no other scheme can be given higher priority. An increase of the present limit is urgently required for financing a comprehensive housing scheme. As a result of these measures the limit of cess will also have to be gradually increased up to a maximum of annas eight.

Welfare measures.

The previous cess of annas four is wholly being spent in various welfare measures like establishment of hospitals, anti-malarial measures, public health, sanitation, adult education, propaganda, anti-tuberculosis, etc. The Act provides that the employers who provide dispensary services up to prescribed standards will be given grants-in-aid not exceeding to an amount equivalent to a cess of eight pies per ton in respect of coal or coke despatched from the respective colliery or the amount actually spent by the employers, whichever is less. Where the employers have not provided adequate dispensary services, the Fund itself will assume this responsibility.

Housing Board

The Act provides for constitution of a Housing Board to prepare and carry out approved scheme financed from the housing account of the Fund for provision of suitable housing accommodation for colliery labour.

Labour Welfare Commissioner.

The Act provides for appointment of Coal Mines Labour Welfare Commissioner, Inspectors and Welfare Officers. The Commissioner shall be Chairman of Coal Mines Labour Housing Board. The Act also provides for constitution of an Advisory Committee consisting of equal numbers of coal mine owners and coal miners for consultation and advice on matters referred to it in connection with the administration of the Act. The Chairman will be an officer of the Central Government appointed by the Central Government.

Housing Accommodation.

The Act lays down provisions regarding housing accommodation and payment of rent at the full prescribed rate or at a lesser rate as may be decided by the Housing Board. The rent is recoverable as an arrear of land revenue. Failure to vacate the accommodation within fifteen days of the service of notice to vacate, will be liable to eviction under the ordinary law.

Coal Mines Labour Welfare Fund (Amendment) Act, 1949.

The Act was amended in 1949 with a view to enlarge the functions of the Housing Board. The Board is now vested with the power to prepare plans and estimates and construct the works of

erection, maintenance and repairs financed from the general welfare account of the Fund.

Coal Mines Lady Welfare Workers.

The Government of India has organised a preliminary training course for Coal Mines Lady Welfare Workers (Kamin Kalyan Sevikas¹) and it was inaugurated by the Labour Member on 28th May, 1947. The scheme of welfare work now undertaken provides for the establishment of 40 demonstration centres spread out suitably over the coalfields of Bengal and Bihar. These centres will help women miners in gaining knowledge of special craft and also arrange for recreational and educational facilities.

Industrial Committee¹ & Advisory Committee.

The Government of India set up an Industrial Committee on Coal Mining on the model of International Labour Organisation, representing Central, Provincial and State Governments, employers and workers for joint consultation and discussion for improvement of the social and working conditions in coal mining industry. This Committee will be quite distinct from the Coal Mines Labour Welfare Fund Advisory Committee, but the two will work in close co-ordination with each other. This Committee will discuss all questions relating to the improvement of the social and working conditions of coal mines and its deliberations form the basis of the collective agreement between the workers and the employers or the administrative and legislative action by the Government. The Advisory Committee was also formed and would advise the Government on all matters referred to it.

COAL MINES LABOUR WELFARE FUND ACT, 1947 (XXXII OF 1947)

Arrangement of Sections

1. Short title, extent and commencement.
2. Interpretation.
3. Imposition and collection of duty.
4. Coal Mines Labour Housing and General Welfare Fund.
5. Expenditure from the Fund.
6. Coal Mines Labour Housing Board.
7. Provisions regarding housing accommodation.

¹ The first session was held at Dhanbad on the 23rd and 24th January, 1948 and the second session at Dhanbad on the 13th and 14th September, 1948.

8. Advisory Committee.
9. Appointment and powers of officers.
10. Power to make rules.
11. Repeal of Ordinance VII of 1944.

COAL MINES LABOUR WELFARE FUND ACT, 1947
(XXXII OF 1947)¹

An Act to make better provision for financing measures for promoting the welfare of labour employed in the coal-mining industry

Whereas it is expedient to make better provision for financing measures for promoting the welfare of labour employed in the coal-mining industry, including housing and the provision of dispensary services, and for such purposes to impose a cess and constitute a fund ;

It is hereby enacted as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Coal Mines Labour Welfare Fund Act, 1947.

(2) It extends to [all the Provinces of India.]²

(3) It shall come into force on such date³ as the Central Government may, by notification in the official Gazette, appoint.

2. Interpretation.—In this Act, unless there is anything repugnant in the subject or context,—

- (a) "Advisory Committee" means the Advisory Committee constituted under section 8 ;
- (b) "Commissioner" means the Coal Mines Labour Welfare Commissioner appointed under section 9, and includes any officer authorised in writing by the Commissioner to exercise any of his functions under this Act ;
- (c) "Housing Board" means the Coal Mines Labour Housing Board constituted under section 6 ;
- (d) "Fund" means the Coal Mines Labour Housing and General Welfare Fund constituted under section 4 ;
- (e) "prescribed" means prescribed by rules made under this Act.

¹ For Statement of Objects and Reasons see the Gazette of India, Part V, dated the 29th March, 1947

² These words were substituted for the words "the whole of British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

³ The Act has come into force from 14th June, 1947.

3. Imposition and collection of duty.—(1) There shall be levied and collected as a cess for the purposes of this Act a duty of excise on all coal and coke despatched from collieries in ¹[the Provinces], at such rate not less than four annas and not more than eight annas per ton, as may from time to time be fixed by the Central Government by notification in the official Gazette:

Provided that the Central Government may, by notification in the official Gazette, exempt from liability to the duty any specified class or classes of coal or coke.

(2) The duty levied under sub-section (1) shall, subject to and in accordance with rules made in this behalf, be collected by such agencies and in such manner as may be prescribed.

4. Coal Mines Labour Housing and General Welfare Fund.—

(1) The proceeds of the duty levied under section 3 shall be paid by the collecting agencies into Reserve Bank of India at Calcutta in the prescribed manner, and shall be credited to a fund to be called the Coal Mines Labour Housing and General Welfare Fund, and apportioned under two separate accounts, to be called the housing account of the Fund and the general welfare account of the Fund, in such manner as the Central Government from time to time may, by notification in the official Gazette, determine:

Provided that there shall at all times be credited—

(a) to the housing account of the Fund, not less than one anna and four pies, and

(b) to the general welfare account of the Fund, not more than four annas and eight pies,—

out of the duty collected under this Act on every ton of coal or coke.

(2) There shall also be credited to the housing account of the Fund—

(a) any grants made thereto by the Central Government;

(b) rents, if any, realised from housing accommodation constructed out of such account;

(c) any other moneys received by the Housing Board.

5. Expenditure from the Fund.—(1) The cost of administering the Fund and the salaries and allowances, if any, of the Commissioner, Inspectors, Welfare Officers and other staff appointed to supervise or

¹ These words were substituted for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

carry out measures financed from the Fund shall be defrayed out of the Fund, and shall be apportioned between and debited to the housing account and the general welfare account in such manner as may be prescribed.

(2) The Central Government may out of the general welfare account of the Fund pay annually grants-in-aid to such of the colliery owners as maintain to the satisfaction of the Commissioner dispensary services of the prescribed standard for the benefit of labour employed in their collieries, so however that the amount payable as grant-in-aid to the owner of a colliery shall not exceed—

- (i) the amount of the duty at the rate of eight pies per ton recovered in respect of coal or coke despatched from the colliery less the proportionate cost of recovery, or
- (ii) the amount spent by the owner of the colliery in the maintenance of the dispensary service, as determined by the Commissioner,

whichever is less :

Provided that no grant-in-aid shall be payable in respect of any dispensary service maintained by the owner of the colliery if the amount expended thereon, as determined by the Commissioner, is less than eighty rupees per mensem.

(3) The balance of the moneys in the general welfare account of the Fund shall be applied by the Central Government to meet expenditure incurred in connection with measures which are in the opinion of the Central Government necessary or expedient to promote the welfare of labour employed in the coal-mining industry.

(4) Without prejudice to the generality of sub-section (3) the moneys in the general welfare account of the Fund may be utilised to defray—

- (a) the cost of measures for the benefit of labour employed in the coal-mining industry directed towards—
 - (i) the improvement of public health and sanitation, the prevention of disease, the provision of medical facilities and the improvement of existing medical facilities, including the provision and maintenance of dispensary services in collieries the owners of which do not receive grants-in-aid under sub-section (2),
 - (ii) the provision of water-supplies, and facilities for washing and the improvement of existing supplies and facilities,

- (iii) the provision and improvement of educational facilities,
- (iv) the improvement of standards of living, including nutrition, amelioration of social conditions, and the provision of recreational facilities,
- (v) the provision of transport to and from work ;

(b) the grant to a Provincial Government, a local authority or the owner, agent or manager of a coal mine of money in aid of any scheme approved by the Central Government for any purpose for which moneys in the general welfare account of the Fund may be utilised ;

(c) the allowances, if any, of the members of the Advisory Committee and the amounts debitable to the account under sub-section (1) ;

(d) any other expenditure which the Central Government directs to be defrayed out of the moneys in the general welfare account of the Fund

(5) The Central Government shall publish annually in the official Gazette an estimate of receipts into and expenditure from the general welfare account of the Fund together with a statement of the accounts and a report of the activities financed during the previous year from the general welfare account of the Fund, and shall forward copies of such statement and report to members of the Advisory Committee.

(6) The moneys in the housing account of the Fund shall be applied by the Housing Board to defray—

(a) the cost of erecting, maintaining and repairing housing accommodation for labour employed in the coal-mining industry and of providing services and facilities connected therewith ;

(b) the cost of preparing schemes, and of acquiring any land required, for the purposes referred to in clause (a) ;

(c) the grant, subject to the previous approval of the Central Government, to a Provincial Government, a local authority or the owner, agent or manager of a coal mine of money in aid of any scheme approved by the Housing Board for the purposes referred to in clauses (a) and (b) ;

(d) the allowances, if any, of members of the Housing Board and the amounts debitable to the account under sub-section (1) ;

- (e) any other expenditure which the Central Government directs to be defrayed out of the moneys in the housing account of the Fund.

(7) In February of each year the Housing Board shall submit to the Central Government a statement in the prescribed form of the estimated receipts into and expenditure from the housing account of the Fund for the ensuing financial year together with a report of the activities financed during the previous year from the housing account of the Fund, and may at any time during the ensuing financial year submit to the Central Government a supplementary statement and shall forward copies of such statements and report to members of the Advisory Committee.

(8) The Housing Board shall comply with such directions as the Central Government may from time to time think fit to give in respect of expenditure from the housing account of the Fund.

(9) The Housing Board may invest moneys in the housing account of the Fund in securities of the Government of India or, with the previous approval of the Central Government, in other securities.

(10) The Housing Board shall cause to be maintained such books of account as may be prescribed and shall prepare in the prescribed manner an annual statement of the accounts.

(11) The Housing Board shall cause the housing account of the Fund to be audited annually by a person qualified under the provisions of section 144 of the Indian Companies Act, 1913 (VII of 1913, to act as an auditor of companies, and as soon as the said account has been audited the Housing Board shall forward copies thereof together with copies of the report of the auditor thereon to the Central Government and to members of the Advisory Committee.

(12) The Central Government shall have power to decide whether any particular expenditure is or is not debitable to the housing account, or the general welfare account, of the Fund, and its decision shall be final.

(13) Before incurring any expenditure from the Fund other than expenditure of a routine or urgent nature the Central Government or, as the case may be the Housing Board, shall consult the Advisory Committee.

6. Coal Mines Labour Housing Board.—[(1) The Central Government, shall by notification in the official Gazette, constitute

a Coal Mines Labour Housing Board for the following purposes, namely :—

(a) to prepare and carry out, subject to the previous approval of the Central Government, schemes financed from the housing account of the Fund for the provision of suitable housing accommodation for labour employed in the coal mining industry.

(b) to prepare plans and estimates for, and construct or carry out, such works of erection, maintenance and repair financed from the general welfare account of the Fund as the Central Government may, by general or special order, specify; and

(c) to carry out any other functions assigned to the Housing Board by or under this Act.]¹

(2) The Commissioner shall be the Chairman of the Housing Board, and the other members thereof shall be appointed by the Central Government and shall be of such number and chosen in such manner as may be prescribed.

(3) The Housing Board shall be a body corporate by the name of the Coal Mines Labour Housing Board, having perpetual succession and a common seal, with power to acquire property both movable and immovable, and shall by the said name sue and be sued.

(4) No act done by the House Board shall be called in question in the ground merely of the existence of any vacancy in, or defect on the constitution of, the Housing Board.

7. Provisions regarding housing accommodation.—(1) The occupation by any person of any housing accommodation provided out of the housing account of the Fund shall be subject to compliance by that person at all times with such conditions relating to his occupation of such accommodation as may be prescribed

(2) Before any person occupies any such accommodation he shall be furnished with a copy of the conditions referred to in sub-section (1), and if he so desires the said conditions shall be read over to him in a language which he understands; and the Housing Board shall cause to be published in such manner as it thinks best adapted for informing the persons concerned any changes which may from time to time be made in the said conditions.

(3) If, in the opinion of the Housing Board, any person in occupation of any such accommodation fails or ceases to comply with any of the conditions referred to in sub-section (1) it may, by notice

¹ This sub-section was substituted by Section 2 of Coal Mines Labour Welfare Fund (Amendment) Act, 1949 (XXVIII of 1949).

in writing, require him to vacate the accommodation on or before such date, not being less than thirty days after the service of the notice, as may be specified in the notice ; and the occupation of such accommodation by such person or any dependent of his after the date so specified shall be unlawful, and such person or dependent may be evicted accordingly by due process of law from such accommodation.

(4) There shall be payable in respect of the occupation of any such accommodation as aforesaid rent at such rate as may be prescribed :

Provided that the Housing Board may remit, subject to compliance at all times with the conditions referred to in sub-section (1), either the whole or any part of the prescribed rent :

Provided further that where, in the case of any person who is by virtue of a remission under the first proviso paying either no rent or a reduced rent, the Housing Board has reason to believe that such person has contravened any of the said conditions, it may by notice in writing require such person to pay, with effect on and after the expiry of seven days from the service of the notice, rent for the accommodation occupied by him at the full prescribed rate.

(5) All rent payable in respect of the occupation of such accommodation as aforesaid, whether at the full prescribed rate or at a lesser rate, shall be recoverable as an arrear of land revenue.

8. Advisory Committee.—(1) The Central Government shall, by notification in the official Gazette, constitute an Advisory Committee, to advise on matters on which the Central Government or the Housing Board is required by this Act to consult the Committee and on any other matters arising out of the administration of this Act which the Central Government may refer to it for advice.

(2) The members of the Advisory Committee shall be appointed by the Central Government and shall be of such number and chosen in such manner as may be prescribed :

Provided that the Advisory Committee shall include an equal number of members representing Government, the owners of coal mines and workmen employed in the coal-mining industry, and that at least one member of the Advisory Committee shall be a woman.

(3) The Chairman of the Advisory Committee shall be an officer of the Central Government appointed by the Central Government.

9. Appointment and powers of officers.—(1) The Central Government may appoint a Coal Mines Labour Welfare Commissioner and such number of Inspectors, Welfare Officers and other staff as

it thinks fit to supervise and carry out measures financed from the Fund

(2) Any person so appointed shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

(3) The Commissioner or any Inspector or Welfare Officer may, with such assistance, if any, as he thinks fit, enter at all reasonable times any place which he considers it necessary to enter for the purpose of supervising or carrying out the measures financed from the Fund, and may do therein anything necessary for the proper discharge of his duties.

10. Powers to make rules.—(1) The Central Government may, by notification in the official Gazette, and subject to the condition of previous publication, make rules to carry into effect the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, rules made under this section may provide for—

- (i) the manner in which the duty levied under sub-section (1) of section 3 shall be collected, the persons who shall be liable to make the payments, the making of refunds, remissions and recoveries, the deduction by collecting agencies of a percentage of the realizations to cover the cost of collection, and the procedure to be followed in remitting the proceeds to the Reserve Bank of India ;
- (ii) the composition of the Housing Board, the manner in which its members shall be chosen, the term of office of its members, the allowances if any payable to them and the manner in which the Housing Board shall conduct its business, including the number of members necessary to form a quorum at a meeting thereof ;
- (iii) the books of account to be maintained by the Housing Board, and the form of its financial estimates and statements of account ;
- (iv) the composition of the Advisory Committee, the manner in which its members shall be chosen, the term of office of its members, the allowances if any payable to them and the manner in which the Advisory Committee shall conduct its business ;

- (v) the apportionment between the housing account and the general welfare account of the Fund of the expenditure on the administration of the Fund and on the salaries and allowances of the Commissioner, Inspectors, Welfare Officers and other staff employed for the purposes of this Act ;
- (vi) the standard of dispensary service to be provided by owners of collieries for the purposes of sub-section (2) of section 5, and the inspection and supervision of the dispensaries and other places at which such services are provided ;
- (vii) the application by owners of collieries for grants-in-aid, the authority to whom and the manner in which such applications shall be made and the particulars to be specified in such applications ;
- (viii) the manner in which dispensary services may be provided by the Central Government ;
- (ix) the conditions governing the grant of money from the the general welfare account of the Fund to a Provincial Government, a local authority or the owner, agent or manager of a coal mine ;
- (x) the rate of rent for housing accommodation provided out of the housing account of the Fund ;
- (xi) the conditions of service and the duties of Inspectors, Welfare Officers and other officers appointed to supervise or carry out measures financed from the Fund ,
- (xii) the duties and functions of the Commissioner ;
- (xiii) the furnishing by owners, agents or managers of coal mines of statistical or other information, and the punishment by fine not exceeding two hundred rupees of failure to comply with the requirements of any rules made under this clause ;
- (xiv) any other matter which under this Act is to be or may be prescribed

11. Repeal of Ordinance VII of 1944.—(1) The Coal Mines Labour Welfare Fund Ordinance 1944, is hereby repealed.

(2) For the avoidance of doubts it is hereby declared that the provisions of section 6 of the General Clauses Act, 1897 (X of 1897), shall apply to the repeal effected by this section

(3) Any balance remaining in the Fund constituted under the aforesaid Ordinance shall be credited to the Fund constituted under this Act, and shall be apportioned between the housing account and the general welfare account of such Fund in such manner as the Central Government may determine

COAL MINES LABOUR WELFARE FUND RULES, 1949

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COAL MINES LABOUR WELFARE FUND RULES 1947¹

In exercise of the powers conferred by section 10 of the Coal Mines Labour Welfare Fund Act, 1947 (XXXII of 1947), the Central Government is pleased to make the following rules, the same having been previously published as required by sub-section (1) of the said section, namely:—

CHAPTER I—GENERAL.

1. Short title—These rules may be called the Coal Mines Labour Welfare Fund Rules, 1949

2. Definitions—In these rules, unless there is anything repugnant in the subject or context,—

- (a) "The Act" means the Coal Mines Labour Welfare Fund Act, 1947 (XXXII of 1947) ;
- (b) "member" means a member of the Advisory Committee or the Housing Board, as the case may be ; and
- (c) "owner" of a coal mine includes a lessee or mortgagee with possession of such coal mine.

¹ These Rules were published under Ministry of Labour Notification No LW 101/48 dated the 7th February, 1949

CHAPTER II—ADVISORY COMMITTEE, SUB-COMMITTEES
AND HOUSING BOARD

3. *Advisory Committee* —(1) (a) The Advisory Committee shall consist of the following members, namely :—

- (i) the Secretary to the Government of India in the Ministry of Labour, who shall be the Chairman ,
- (ii) the Coal Mines Labour Welfare Commissioner, who shall be the Vice-Chairman ,
- (iii) the Chief Inspector of Mines ;
- (iv) one official nominated by the Government of West Bengal ;
- (v) one official nominated by the Government of Bihar ,
- (vi) one official nominated by the Government of the Central Provinces and Berar ,
- (vii) two persons nominated by the Indian Mining Association ;
- (viii) one official nominated by the Central Government to represent the State Railway Collieries ,
- (ix) one person nominated by the Indian Mining Federation ,
- (x) one person nominated by the Indian Colliery Owners Association ,
- (xi) one person nominated by the Central Provinces and Berar Mining Association ;
- (xii) six persons nominated by the Central Government to represent the interests of the workmen employed in coal mines ;
- (xiii) a woman nominated by the Central Government if no woman has been nominated under clause (xii) above ;
- (xiv) two mining engineers to be nominated by the Central Government, one on the recommendation of the Indian Mine Managers' Association and the other on that of the National Association of Colliery Managers

(b) The Hon'ble Minister for Labour in the Central Government may attend any meeting of the Advisory Committee and when he does, he shall, notwithstanding anything contained in sub-rule (1) (a) (i), preside at the meeting

(2) If the seat of a member nominated by a body other than the Central Government falls vacant, the Central Government shall,

within two months of the falling vacant of such seat, by notice in writing, call upon the body concerned to nominate a person to fill the vacancy, and the nomination shall be made within thirty days of the date of issue of such notice :

Provided that if the body fails to make the nomination within the period specified, the Central Government may nominate a person to fill the vacancy.

(3) If a nominated member is unable to attend a meeting of the Advisory Committee, the Central Government or the body which nominated him may, by notice in writing signed on its behalf and by the said member and addressed to the Chairman of the Committee, nominate a substitute in his place to attend that meeting. Such a substitute shall have all the rights of a member in respect of that meeting.

4. Executive Committee of the Advisory Committee—(a) The Executive Committee of the Advisory Committee shall consist of the Chairman, the Vice-Chairman and Secretary to be nominated by the Chairman.

(b) The office of the Committee shall be situated in or adjacent to the West Bengal or Bihar coal-fields.

(c) The Secretary shall carry out routine duties and the Vice-Chairman shall exercise such other powers and discharge such other duties of the Chairman as may be delegated by him.

5. Sub-Committee—(1) The Advisory Committee shall constitute the following Sub-Committee to carry out the functions assigned to each, namely :—

(a) Finance Sub-Committee consisting of five members to frame schemes involving expenditure and to advise generally regarding the budget, maintenance of accounts and all expenditure debitable to the Fund, and

(b) Coalfield Sub-Committees, each consisting of five members, one for each of the main coal-fields in West Bengal, Bihar, the Central Provinces and Berar and Assam to consider and advise on all matters relating to expenditure from the Fund in their respective coalfields.

(2) Subject to sub-rule (4) of this rule, the Vice-Chairman of the Advisory Committee shall be the Chairman of the Finance Sub-Committee and a member of the Advisory Committee concerned with

the particular coalfield shall be the Chairman of the particular Coal-field Sub-Committee. The Vice-Chairman of the Advisory Committee shall be entitled to attend meetings of the Coalfield Sub-Committees.

(3) All members of the Coalfield Sub-Committees, except one, and all members of the Finance Sub-Committee except the Coal Mines Welfare Commissioner, shall be non-officials and in each Sub-Committee there shall be equal representation of the colliery-owners and workmen employed in the coal mining industry.

(4) Notice of every meeting of a Sub-Committee shall be sent also to the Chairman of the Advisory Committee who may attend the meeting and, notwithstanding anything in sub-rules (2) and (3), preside at any meeting if he so desires, and when he does, he shall be entitled to vote.

(5) The members of the Finance Sub-Committee shall be chosen by the Advisory Committee from amongst members of the Committee.

(6) The members of each Coal-field Sub-Committee shall be nominated by the Advisory Committee as far as possible from amongst persons other than the members of the Advisory Committee.

(7) The meetings and proceedings of every Sub-Committee shall be governed by the provisions herein contained for regulating the meetings and proceedings of the Advisory Committee and the Housing Board in so far as the same are applicable thereto. The quorum for a meeting of a Sub-Committee shall be three members empowered to vote.

6. Housing Board.—(1) The Housing Board shall consist of—

- (i) The Coal Mines Welfare Commissioner who shall be the Chairman of the Board,
- (ii) The Chief Inspector of Mines;
- (iii) The Superintending Engineer, Coal Mines Labour Welfare Fund; and
- (iv) Six persons nominated by the Central Government in consultation with the Advisory Committee.

(2) If a nominated member is unable to attend a meeting of the Housing Board, the Central Government may by notice in writing signed by an officer authorized in this behalf and by the said member and addressed to the Chairman of the Board, nominate a substitute in his place to attend that meeting. Such a substitute shall have all the rights of a member in respect of that meeting.

7. Power to co-opt members.—(1) The Advisory Committee may at any time and for such period as it thinks fit, co-opt any person or persons as members of the Advisory Committee or any Sub-Committee. The Housing Board may likewise at any time and for such period as it thinks fit co-opt any person or persons as members of the Housing Board.

(2) A member co-opted under sub-rule (1) shall exercise all the powers and functions of a member under these rules, except that he shall not be entitled to vote on any question coming before the Advisory Committee or the Housing Board

8. Term of office of members —(1) A nominated member shall, unless he resigns his office or dies, hold office for a period of three years from the date of the notification appointing him a member of the Advisory Committee or the Housing Board and shall be eligible for re-nomination :

Provided that an outgoing member shall continue in office until the appointment of his successor is notified

(2) A member nominated to fill a casual vacancy or, in the case of the Advisory Committee, a member appointed by the Central Government under the proviso to rule 3 (2) shall hold office for as long as the member whose place he fills would have been entitled to hold office if the vacancy had not occurred, or if the nomination, as required by the rule aforesaid, had been made.

9. Remuneration of members.—Each non-official member, including a non-official co-opted under rule 7, shall be paid Rs. 10 for each meeting of the Advisory Committee, Sub-Committee or Housing Board attended by him subject to a maximum of Rs. 30 for any one calendar month and travelling expenses at the rates admissible to Government servants of the First Grade for a journey on tour

Provided that where the journey is performed by road, mileage at the rate admissible to Government servants of the First Grade shall be paid subject to the furnishing of a certificate that the journey by road was undertaken to avoid loss of time which the journey by railway would have entailed and subject to the further condition that the distance travelled by road does not exceed 75 miles for a single journey.

NOTE.—For the purpose of this Rule the term 'member' includes a member of the Sub-Committee who is not a member of the Advisory Committee or of the Housing Board

10. Resignation—A non-official nominated member may resign his office by letter addressed to the Chairman of the Advisory Committee or the Housing Board, as the case may be.

11. Absence from India.—(1) Before a non-official nominated member leaves India, he shall intimate to the Chairman of the Advisory Committee or the Housing Board, as the case may be, the date of his departure from, and the date of his expected return to, India and if he intends to be absent from India for a period longer than six months, he shall tender his resignation.

(2) If any such member leaves India without complying with sub-rule (1), he shall be deemed to have resigned with effect from the date of his departure from India.

12. Vacation of office—A nominated member shall be declared by the Chairman of the Advisory Committee or the Housing Board to have vacated his office—

- (a) if he becomes insolvent ; or
- (b) if he is convicted of any offence which, in the opinion of the Central Government, involves moral turpitude ; or
- (c) if he is absent from three consecutive meetings of the Advisory Committee or the Housing Board without leave of absence from its Chairman ; or
- (d) if, in the opinion of the Central Government it is undesirable that he should continue to be a member of the Advisory Committee or the Housing Board.

PROCEDURE RELATING TO MEETINGS.

13. Disposal of business.—(1) Every question which the Advisory Committee or the Housing Board is required to take into consideration shall be considered either at its meetings or, if its Chairman so directs, by sending the necessary papers to all members for their opinion :

Provided that the papers need not be sent to a member who is absent from India.

(2) Where a question is referred for opinion under sub-rule (1), any member may request that the question be considered at a meeting of the Advisory Committee or the Housing Board and thereupon the Chairman may and, if the request is made by five or more members

in the case of the Advisory Committee and three or more members in the case of the Housing Board, shall direct that it be so considered

14. *Time and place of meetings*—The Advisory Committee or the Housing Board shall meet at such place and time as may be appointed by its Chairman

15. *Notice of meetings*.—(1) Notice shall be given to every member present in India of the time and place fixed for each ordinary meeting at least fifteen days before such meeting in the case of the Advisory Committee and at least seven days before such meeting in the case of the Housing Board, and each member shall be furnished with a list of business to be disposed of at that meeting

Provided that when an emergent meeting is called by the Chairman of the Advisory Committee or the Housing Board, such notice shall not be necessary

(2) No business which is not on the list shall be considered at a meeting without the permission of the Chairman of the Advisory Committee or the Housing Board as the case may be

16. *Presiding at meetings*—The Chairman of the Advisory Committee shall, save as provided in clause (b) or sub-rule (1) of Rule 3, preside at every meeting of the Committee at which he is present. If the Chairman is absent from any meeting, the Vice-Chairman shall preside at that meeting and if both the Chairman and the Vice-Chairman are absent, the members present shall elect one of their members to preside over the meeting and the member so elected shall at that meeting exercise all the powers of the Chairman of the Committee. In the case of the Housing Board, the Chairman of the Housing Board shall preside at every meeting of the Board at which he is present. If the Chairman is absent from any meeting, the members present shall elect one of their members to preside over the meeting and the member so elected shall at that meeting exercise all the powers of the Chairman of the Board.

17. *Quorum*—No business shall be transacted at a meeting of the Advisory Committee or the Housing Board, whether ordinary or emergent, unless at least five members empowered to vote in the case of the Advisory Committee and three members empowered to vote in the case of the Housing Board are present :

Provided that if at any meeting less than this number of members attend, the Chairman of the Advisory Committee or the Housing

Board as the case may be, may adjourn the meeting to a date not less than seven days later, informing the members present and sending notice to other members that he proposes to dispose of the business at the adjourned meeting, whether there is a quorum or not, and he may thereupon dispose of the business at such adjourned meeting.

18. *Decision by majority*—(1) Every question at a meeting of the Advisory Committee or the Housing Board shall be decided by a majority of votes of the members present and voting on that question but the minority shall have the right of requiring their dissent to be noted.

(2) Every question referred to the members for opinion shall, unless the Chairman of the Advisory Committee or the Housing Board in pursuance of sub-rule (2) of Rule 13 reserves it for consideration at a meeting, be decided in accordance with the opinion of the majority of members who have submitted their opinions within the time allowed.

(3) In the case of an equal division of votes or opinions, the Chairman of the Advisory Committee or the Housing Board as the case may be, shall give an additional vote or opinion

19. *Minutes of meetings*.—(1) The proceedings of each meeting of the Advisory Committee or the Housing Board shall be circulated to all members of the Advisory Committee or the Housing Board, as the case may be, present in India and thereafter recorded in a minute book which shall be kept for permanent record. In the case of the Housing Board, the proceedings shall also be circulated to all members of the Advisory Committee present in India

(2) The record of the proceedings of each meeting shall be signed by the Chairman of the Advisory Committee or the Housing Board as the case may be.

POWERS OF THE CHAIRMAN OF THE ADVISORY COMMITTEE

20. *Staff*.—(1) Subject to provision in the sanctioned budget and to the provisions of Rule 21, the Chairman of the Advisory Committee may appoint technical and other staff for the Housing Board, and the Committee may fix the scale of establishment and salaries and allowances of officers and servants employed by it and may require security to be taken from them in such cases and for such amount as it thinks fit:

Provided that no appointment to a post on a salary exceeding Rs. 500 per month shall be made without the previous sanction of the Central Government

(2) The Chairman of the Advisory Committee may authorise the staff to give assistance to any sub-Committee of the Advisory Committee, to the Housing Board or to any other authority exercising executive or advisory functions in connection with the Act or to any person getting a grant from the Fund

21. Schemes of expenditure—(1) The Chairman of the Advisory Committee shall have power to incur expenditure on administrative staff and sanctioned welfare and housing schemes to the extent of the financial provision in the sanctioned budget:

Provided that—

(i) he shall have no power to sanction the creation of a post on a salary of more than Rs. 500 per month and shall have only such powers of re-appropriation as may be approved by the Central Government after considering the advice of the Advisory Committee,

(ii) he shall have no power to incur expenditure on a scheme that has not been sanctioned by the Central Government if the cost of such a scheme exceeds Rs. 20,000 non-recurring or Rs 2,500 per annum recurring

(2) The Chairman of the Advisory Committee may, with the concurrence of the appropriate Sub-Committee approve any new scheme costing less than Rs. 20,000 non-recurring and Rs 2,500 per annum recurring. All other schemes shall require the sanction of the Central Government which shall be applied for by the Chairman of the Advisory Committee after consulting it.

Where the Central Government does not approve a new scheme forwarded by the Chairman of the Advisory Committee, he shall be so informed within three months, and the Chairman shall inform the Advisory Committee or if the matter concerns only a particular coalfield, the appropriate Sub-Committee.

(2) The Vice-Chairman of the Advisory Committee may exercise the powers of the Chairman of the Advisory Committee under sub-rules (1) and (2) to incur expenditure on sanctioned welfare and housing schemes if the cost of such a scheme does not exceed Rs. 10,000 non-recurring or Rs. 1,000 per annum recurring

22. Contingent expenditure—The Chairman of the Advisory Committee may sanction, without reference to it, expenditure on contingencies, supplies and services and purchase of articles required for the working of the office of the Advisory Committee and the Housing Board subject to financial provision in the sanctioned budget and to the condition that the expenditure on any single object shall not exceed Rs 500.

POWERS OF ADVISORY COMMITTEE

23. Budget.—(1) The Annual budget of the General Welfare Fund prepared by the Executive Committee in consultation with the Finance Sub-Committee shall be considered by the Advisory Committee in January each year. Thereafter, the budget as finally approved by the Advisory Committee shall be forwarded for sanction to the Central Government which may make such alterations therein as it considers necessary before according its sanction.

(2) *Other matters to be considered by Committee*—Besides its statutory duties, the Advisory Committee shall consider and report on the budget and on any matter referred to it by the Central Government or by the Chairman of the Advisory Committee for advice.

If not less than five members request the Chairman of the Advisory Committee to refer any matter to the Advisory Committee, he shall refer to it accordingly.

(3) *Committee to be informed of expenditure.*—A memorandum setting forth any grant made or expenditure incurred from the Fund since the last meeting shall be laid at each meeting of the Advisory Committee.

24. Powers of the Housing Board.—(1) The Housing Board shall, subject to the previous approval of the Central Government, frame bye-laws—

- (i) specifying the conditions relating to occupation to be observed by the allottees ;
- (ii) providing for the manner in which allotment of housing accommodation shall be made ;
- (iii) fixing the rates at which rent is to be recovered and the manner of recovery ; and
- (iv) generally for carrying out the functions of the Board under the Act.

(2) The Housing Board shall submit to the Central Government a statement in form A as required by sub-section (7) of section 5 of the Act

(3) (a) The Housing Board shall prepare and submit in January each year to the Advisory Committee and the Central Government an annual statement of the accounts in form B

(b) The annual account shall be accompanied by a statement of investments in form C made under sub-section (9) of section 5 of the Act

(4) The Housing Board shall also maintain separate accounts for the following —

(a) Progressive expenditure on every approved scheme ;

(b) loan repayment account ,

(c) cost of acquisition of land for buildings ; and

(d) depreciated value at the end of each financial year of buildings whose cost has been debited to the housing account

(5) All agreements and instruments entered into by the Housing Board shall be signed by the Chairman on behalf of the Housing Board

CHAPTER III—FINANCIAL PROVISIONS.

25. *Allocation of expenditure from the Fund between the General Welfare Account and the Housing Account* —The cost of administering the Fund and the salaries and allowances of the officers and staff employed by the Fund shall be apportioned between the housing account and the general welfare account in the proportion of two to seven.

26. *Grants* —(1) In each case in which a grant is made by, or with the approval of the Central Government, from the general welfare account or the housing account of the Fund to a Provincial Government, a local authority, or the owner of a coal mine, in aid of any scheme approved by the Central Government for any purpose for which the monies in the general welfare account or the housing account may be utilised, the Central Government may impose conditions necessary for ensuring—

(a) that the work for which the grant is made is duly and promptly executed and the money is actually utilised for the purpose for which it is granted ;

- (b) that the data on which the grant is calculated are in accordance with facts ,
- (c) that any particulars which the Central Government may from time to time require for the proper discharge of its responsibilities are promptly supplied ,
- (d) that all necessary facilities for inspection are accorded to persons duly authorised by the Central Government for the purpose of clause (a) or for checking the corrections of any particulars supplied under clause (c) or for the collection of any such particulars ; and
- (e) that proper accounts of the money granted are kept and submitted for audit by such persons as the Central Government may authorise in this behalf.

(2) Before making a grant from the general welfare account or the housing account of the Fund to a local authority or to the owner of a coal mine, the Central Government shall require such local authority or owner to execute a bond for the fulfilment of conditions imposed by the Central Government under sub-rule (1).

(3) It shall be a condition of every bond executed under sub-rule (2) that in the event of the local authority or owner of the mine violating any condition imposed under sub-rule (1), such local authority or owner shall be liable to pay to the Central Government such sum by way of penalty as may be specified in the bond

27. Recovery of excise duty—(1) The duty of excise imposed under section 3 of the Act on coal and coke shall, when such coal or coke is despatched by rail from collieries, to any station in India, be collected by the Railway Administration concerned by means of a surcharge on freight and such duty of excise shall be recovered—

- (a) from the consignor, if the freight charges are prepared at the forwarding station ; or
- (b) from the consignee, if the freight charges are collected at the destination of the consignment ; or
- (c) from the party paying the freight if the consignment is booked on the weight system

(2) Where coal or coke is despatched by rail from collieries to any station outside India, the duty of excise shall be recovered from the consignor at the forwarding station

(3) In calculating the amount of duty of excise payable on any one consignment a fraction of an anna shall be rounded off to the nearest anna.

28. *Weight for charge.*—For the purpose of the levy of the excise duty, the actual weight of a consignment rounded off to the nearest ton, shall be taken into account.

29. *Remittance of excise duty.*—(1) The total amount of excise duty collected by each Railway Administration less—

(a) refunds and write-offs authorised by the Railway Administration under Rule 30 and

(b) deduction of such percentage as the Central Government may, by notification in the Official Gazette, fix towards the cost of collection,

shall, under advice to the Accountant-General, Bihar, be remitted quarterly to the Reserve Bank of India at Calcutta to the credit of the Central Government.

(2) An amount equivalent to the amount of excise duty credited to the Central Revenue under sub-rule (1) shall be transferred to the Coal Mines Labour Housing and General Welfare Fund.

(3) The amount of the excise duty remitted during a financial year by a Railway Administration under sub-rule (1) shall be certified as soon as possible after the close of the financial year by such officer or officers as the Central Government may appoint in this behalf.

(4) The certificates under sub-rule (3) shall be sent to the Central Government and copies thereof to the Accountant-General, Bihar, and to the Coal Mines Welfare Commissioner by the officers concerned.

30. *Refunds and recoveries*—(1) When the amount of the duty of excise due under these rules has not been collected either wholly or in part or where the amount collected is in excess of the amount due, the Railway Administration shall have the right to recover the under-charge and the liability to refund the over-charge on the same principles as apply to under-charge and over-charge in regard to railway freight charges.

(2) When it is proved to the satisfaction of the Central Government or of any person authorised in this behalf by the Central Government, that any coal on which the duty of excise under section 3 of the Act had been collected has been used in the manufacture

of any coke on which the duty has also been collected, the Central Government or the person authorised in this behalf by the Central Government may order refund of an amount equal to the duty collected on such coal to the person from whom such duty was collected.

31. *Audit of Accounts*—The accounts of the General Welfare Account Fund shall be maintained and audited in the same manner as of any other Fund administered by the Central Government. The housing account of the Fund which shall be maintained by the Board shall be audited by a certified Auditor as soon after the close of the financial year as possible. The appointment of the Auditor shall be sanctioned and his remuneration fixed by the Central Government on the recommendation of the Advisory Committee.

CHAPTER IV—MISCELLANEOUS.

32. *Statistics and other information*—(1) The owner of a coal mine shall furnish such statistics or other information as the Central Government or any other person authorised by the Central Government in writing in this behalf may by written order require for the purposes of the Act in such form or manner and within such time as may be specified in the order

(2) Any owner of a coal mine, who without reasonable excuse fails to furnish the statistics or other information required by the Central Government under sub-rule (1), or furnishes statistics or other information containing a statement, entry or detail which is not to the best of his knowledge or belief true, shall be punished with fine which may extend to five hundred rupees.

33. *Employees of the Fund not public servants.*—Persons paid from the Fund shall not be deemed to be Government servants, notwithstanding that the Central Government may direct that service rules applicable to Government servants generally may apply, with or without modification, to such persons.

FORM A.

*Statement of Estimated Receipts and Expenditure from the Housing
Account of the Fund for the financial year.....*

Receipts.	Estimates for the current year		Actuals for current year.		Expenditure.	Estimates for the current year.		Actuals for current year.	
	Rs.	Rs.	Rs.	Rs.		Rs.	Rs.	Rs.	Rs.
1. Cess collections (amount apportioned for the housing account of the Fund at the rate of)	Administrative charges (share of expenditure to be charged to the housing account of the Fund).	..	..	..	..
2. Loan sanctioned by Central Government.	Expenditure on house building scheme.	..	..	..	..
3. Rents realised from housing accommodation.	(a) Cost of preparing schemes	..	..	..	..
4. Interest on investments	(b) Cost of acquisition of land	..	..	..	..
5. Miscellaneous receipts	(c) Cost of construction	..	..	..	..
					(d) Maintenance and repair charges.	..	..	..	..
					Sinking fund subscription	..	..	..	..
					Grants to Provincial Governments, local authorities or owners of coal mines in aid of approved schemes.	..	..	..	..
Total	Total	..	..	..	..

Ministry of Labour Notifications.

No. L.M.W.-5 (3) (2)/46-11, dated the 21st April, 1947—In exercise of the powers conferred by sub-section (2) of section 8 of the Provident Funds Act, 1925 (XIX of 1925), the Central Government is pleased to direct that the provision of the said Act shall apply to the Provident Fund established for the benefit of the employees of the Coal Mines Labour Welfare Fund who are not Government servants.

No. LW-1(4)/47 (1), dated the 14th June, 1947 —In pursuance of sub-section (3) of section 1 of the Coal Mines Welfare Fund Act, 1947 (XXXII of 1947), the Central Government is pleased to appoint the 14th day of June, 1947 as the date on which the said Act shall come into force.

No. LW-1(4)/47(2), dated the 14th June, 1947 —In exercise of the powers conferred by sub-section (1) of section 3 of the Coal Mines Labour Welfare Fund Act, 1947 (XXXII of 1947), the Central Government is pleased—

- (i) to fix six annas per ton as the rate at which the duty of excise referred to in the said section shall be levied and collected ; and
- (ii) to exempt from liability to the said duty all coal and coke despatched from collieries in British India otherwise than by rail.

LW-26(28)/47, dated the 9th February 1948.¹—In pursuance of section 6 of the Coal Mines Labour Welfare Fund Act, 1947 (XXXII of 1947), the Central Government is pleased to constitute a Coal Mines Labour Housing Board consisting of the following members, namely :—

1. The Coal Mines Welfare Commissioner, Dhanbad—Chairman.
2. The Chief Inspector of Mines in India, Dhanbad.
3. Mr. S. F. Tarlton.
4. Mr. S. N. Mullick.
5. Mr. D. R. Rathore.
6. Mr. B. P. Sinha.
7. Mr. D. N. Sen.
8. Mr. Chapal Bhattacharji.
9. Superintending Engineer, Coal Mines Labour Welfare Fund.

¹ This Notification was amended by Ministry of Labour Notification No. L-W-9 (22) 49, dated the 18th June, 1949.

No LW-1(2)/49, dated the 12th April, 1949 —In exercise of the powers conferred by clause (b) of sub-rule (1) of rule 29 of the Coal Mines Labour Welfare Fund Rules, 1949, the Central Government is pleased to decide that 2 per cent of the total excise duty collected by the Railway Administrations from the 1st day of April 1948 for purposes of the Coal Mines Labour Welfare Fund Act, 1947 (XXXII of 1947), shall be deducted and retained by them to cover the cost of collection.

No LW-3(6)/49, dated the 14th May, 1949 —In exercise of the powers conferred by Section 4 (1) of the Coal Mines Labour Welfare Fund Act, 1947 (XXXII of 1947) and in supersession of the notification of the Government of India in the Ministry of Labour No. LW-1(4)/47, dated the 28th August, 1947, the Central Government is pleased to determine that during the period of 12 months commencing from the 1st April 1949 out of every six annas credited to the Coal Mines Labour Housing and General Welfare Fund, four annas shall be apportioned, to the housing account and two annas shall be apportioned to the general welfare account of the said Fund.

LW-9(23)49, dated the 18th June 1949.—In exercise of the powers conferred by clause (b) of sub-section (1) of section 6 of the Coal Mines Labour Welfare Fund Act, 1947 (XXXII of 1947), the Central Government is pleased to direct that the Coal Mines Labour Housing Board, constituted by the notification of the Government of India in the Ministry of Labour No. LW-26(28)47, dated the 9th February, 1948, shall prepare plans and estimates for, and construct or carry out, all works of erection, maintenance and repair financed from the general welfare account of the Coal Mines Labour Welfare Fund.

COAL MINES PITHEAD BATH RULES, 1946

Contents

1. Short title and commencement.
2. Definitions.
3. Provision of pithead baths
4. Standards of construction for pithead baths.
5. Water for pithead baths.
6. Lighting.
7. Attendants.

8. Locker rooms
9. Sanitary facilities.
10. Cleanliness.
11. Authority empowered to inspect.

COAL MINES PITHEAD BATH RULES, 1946 ¹

In exercise of the powers conferred by sub-section (bbb) of section 30 of the Indian Mines Act, 1923 (IV of 1923), the Central Government is pleased to make the following rules:—

1. Short title and commencement.—(1) These rules may be called the Coal Mines Pithead Bath Rules, 1946

(2) These rules shall come into force on the 1st July 1947.

2. Definitions—(a) “Prescribed” means prescribed in writing by the competent authority ;

(b) (i) “Category ‘A’ mine” means a coal mine, the average monthly output of which exceeds 500 tons but does not exceed 2,500 tons ;

(ii) “Category ‘B’ mine” means a coal mine, the average monthly output of which exceeds 2,500 tons but does not exceed 10,000 tons.

(iii) “Category ‘C’ mine” means a coal mine, the average monthly output of which exceeds 10,000 tons but does not exceed 20,000 tons.

(iv) “Category ‘D’ mine” means a coal mine, the average monthly output of which exceeds 20,000 tons.

Explanation.—The average monthly output of a mine shall be calculated on the basis of the figures of coal raisings for the previous calendar year.

(c) “competent authority” means the Coal Mines Welfare Commissioner or any person authorised in writing by him in this behalf.

(d) “pithead bath” means a bathing place at or near a pithead for the use of miners equipped with shower baths, locker rooms and ancillary facilities, such as latrines, urinals, and attendants’ rooms.

3. Provision of pithead baths.—(1) The owner of every coal mine shall construct thereat a pithead bath in accordance with plans

¹ These Rules were published under Government of India, Department of Labour Notification No. LMW. 5 (5) 46 dated the 23rd July 1946.

prepared in conformity with these rules and approved by the competent authority ; provided that—

- (i) the competent authority may, in exceptional cases, with the concurrence of the Government of India, grant exemption from this requirement to mines the resources of which are not sufficient to enable them to make provision for adequate supply of water for pithead baths ,
- (ii) the competent authority may grant exemption in respect of any mine, on production of a certificate from the Chief Inspector of Mines that its productive capacity will be exhausted within the next three years, subject to such conditions as may be prescribed requiring the provision of alternative bathing facilities of a temporary character,
- (iii) in a mine with a number of openings, the owner may instal more pithead baths than one, provided that the total number of shower baths installed and of latrines and urinals provided shall not be less than is required to conform with sub-rule (2) of this rule and with rule 9
- (iv) if the competent authority is satisfied that no inconvenience will be caused to the miners concerned if a single pithead bath is provided to serve neighbouring mines of category 'A' or 'B', he may authorise the owners of such mines to provide a single pithead to serve such mines, which shall for the purposes of sub-rule (3) be deemed to be a single mine with an average monthly output equal to the combined average monthly output of the individual mines.

(2) Pithead baths as aforesaid shall be constructed within ¹[eighteen] months of the coming into force of the rules.

(3) Every pithead bath shall be provided with shower baths on the following scale :—

Category 'A' mine : 10 for men and 4 for women.

Category 'B' mine : 20 for men and 8 for women.

Category 'C' mine : 24 for men and 10 for women.

Category 'D' mine : 40 for men and 16 for women.

¹ Substituted by Ministry of Labour Notification No. LW. 51(8) 48 dated the 31st January, 1949

4. *Standards of construction for pithead baths*—Every pithead bath shall conform to the following standards of construction.—

- (i) It shall be a well-designed and substantially constructed building with separate bath cubicles and ancillary facilities for men and women, so laid out as to provide proper segregation of the sexes.
- (ii) It shall be built in brick-in-cement mortar with a roof of cement concrete or corrugated asbestos cement sheets or tiles, or to conform to any other type of prescribed construction
- (iii) The floors and any interior surfaces of the walls which are liable to become wet shall be cement plastered with special finish, or tiled, or finished in any other prescribed manner so as to provide an impervious and clean surface, provided that the walls need be so treated only up to a height of six feet from floor level.
- (iv) Each bath cubicle shall be designed for the use of one person at a time only and shall have a floor area of not less than twelve square feet and shall contain a shower bath with proper fittings for turning the water on and off

Provided that in the case of a pithead bath which was in existence prior to the issue of these rules, the competent authority may permit the continued use of bath cubicles for the use of more than one person if the floor area provided in respect of each shower bath is not less than twelve square feet.

5. *Water for pithead baths*.—(1) Water shall be provided at a pressure equivalent to a head of not less than ten feet at the shower.

(2) When pit water is used, it shall be treated in the prescribed manner before use.

(3) Proper arrangements shall be made to the satisfaction of the competent authority for the drainage or disposal of used bath water.

6. *Lighting*.—Every pithead bath shall remain open at all times of the day and night and the prescribed provision shall be made for lighting.

7. Attendants—(1) At every pithead bath the owner shall appoint a male attendant and a female attendant to supervise the pithead baths intended for men and women respectively.

(2) Separate rooms shall be provided close to the bathing cubicles for the use of male and female attendants.

8. Locker rooms.—(1) Separate locker rooms for clean and pit clothes respectively shall be provided at each pithead bath with the prescribed type of locker installed for the use of each man and woman entitled to use the bath: Provided that until such time as the competent authority so directs in writing combined locker and waiting rooms of adequate size may be provided for men and women respectively in lieu of separate locker rooms for clean and pit clothes.

(2) The owner of the mine shall be responsible for the adequate maintenance of locker rooms and shall provide suitable washing arrangements for pit clothes.

(3) Each miner to whom a locker is allotted shall provide his own padlock and key therefor.

(4) The locker room shall be maintained at all times in a clean and sanitary condition.

9. Sanitary facilities.—(1) Every pithead bath shall be provided with sanitary latrines of the prescribed type on the following scale.—

Category 'A' mine: 4 for men and 2 for women.

Category 'B' mine: 6 for men and 3 for women.

Category 'C' mine: 8 for men and 4 for women.

Category 'D' mine: 14 for men and 5 for women.

(2) Every pithead bath shall be provided with urinals of the prescribed type on the scale of one for every fifty persons employed in the mine.

10. Cleanliness.—(1) All bath cubicles, locker rooms, latrines and urinals shall be maintained at all times in a clean and sanitary condition ;

(2) The owner of the mine shall make arrangements for the sale at each pithead of soap and mustard oil at a price not exceeding what the owner has paid therefor.

11. Authority empowered to inspect.—The competent authority shall be responsible for the inspection of the pithead baths and for ensuring that the provisions of these rules are complied with.

COAL MINES PROVIDENT FUND AND BONUS SCHEMES LEGISLATION.

The Board of Conciliation (Colliery Disputes)¹ which was appointed by the Government of India on the 5th February 1947, to promote a settlement of trade disputes then existing in the collieries in the Provinces of Bengal and Bihar, made certain recommendations regarding the institution of a compulsory Provident Fund Scheme and the payment of attendance and production bonus to the workers. The Fact Finding Committees² appointed in pursuance of paragraph 8 of Resolution dated the 12th May 1947, to report on the grant of monetary benefits and concessions to the colliery workers in the Central Provinces and Berar and in Orissa, also recommended the constitution of a Provident Fund on the same lines as for the collieries in Bengal and Bihar. The recommendations of the Board was accepted by the Government of India and the question of their implementation was discussed in the First Meeting of the Tripartite Industrial Committee on Coal Mining held at Dhanbad on the 23rd and 24th January, 1948. A result of these discussions, an Ordinance called Coal Mines Provident Fund and Bonus Schemes Ordinance, 1948, (VII of 1948) was promulgated by the Government on the 23rd April, 1948. The Ordinance,³ was the first of its kind in India and provided for statutory constitution of a compulsory Provident Fund Scheme and a Bonus Scheme for the colliery workers.

Coal Mines Provident Fund and Bonus Schemes Act, 1948.

A Bill was introduced in the Constituent Assembly (Legislature) on the 9th August, 1948 to replace the Ordinance. The Coal Mines Provident Fund and Bonus Schemes Act, 1948 (XLVI of 1948) was passed on the 20th August, 1948 and received the assent of the Governor-General on the 3rd September, 1948. The Act extends to all the Provinces of India and to the Acceding States to the extent to which the Dominion Legislature has powers to make laws for them. The original scope was subsequently amended by the Repealing and Amending Act, 1949 (XL of 1949).

¹ Gazette of India Extraordinary, dated 12th May, 1947, p. 433.

² Gazette of India Extraordinary, dated 10th October, 1947 (p. 114) and 1st July, 1948 (p. 935).

³ Gazette of India Extraordinary, dated 23rd April, 1948, page 623.

Provident Fund Scheme.

The Act empowers the Central Government to frame a scheme to be called the Coal Mines Provident Fund Scheme for the establishment of a provident fund for the employees in coal mines and specify the coal mines to which the said scheme shall apply, the employees or class of employees who shall join the Fund and the conditions under which an employee may be exempted from joining the Fund or from payment of contributions and the rate, time and manner of payment of contributions by employers and workers. It provides for payment by the employers of such sums of money as may be necessary for meeting the cost of administration of the Fund. It further provides for constitution of a Board of Trustees consisting of the nominees of the Central Government and representatives of Employers' and Employees' Organisations to manage the Provident Fund, number of Trustees, terms and conditions of their nomination, appointment of officers and servants of the Board, investment of the funds, audit of accounts, conditions of withdrawals and rate of interest payable. The Fund shall be deemed to be a recognised provident fund within the meaning of Chapter IX-A of Indian Income-tax Act, 1922 (XI of 1922).

Bonus Scheme.

The Act also empowers the Central Government to frame a scheme to be called the Coal Mines Bonus Scheme (1) providing for payment of bonus dependent on the attendance of an employee in a coal mine during any period, (2) specifying the employees or class of employees eligible for the bonus and the conditions of eligibility, (3) fixing the rate of bonus and manner of calculation, (4) specifying the conditions under which an employee is debarred from getting bonus in whole and in part and (5) fixing the rate at which sums shall be set apart by the employer for payment of bonus and the time and manner of such payment.

Protection against attachment.

The Act lays down that the amount of the Provident Fund standing to the credit of any member shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Court in respect of any debt or

liability incurred by the member. The Act also provides that the amount standing to the credit of any member of the Fund at the time of his death and payable to his nominee under the Coal Mines Provident Fund Scheme shall vest in the nominee and shall be free from any debt or liability incurred by the deceased or the nominee before the death of the member.

Penalty.

Contravention of any of the provisions of the schemes is punishable with imprisonment up to six months or a fine up to Rs 1000/- or both.

Administration.

The Central Government is responsible for the administration of the schemes under the Act and may appoint Inspectors for this purpose.

Framing of Schemes¹ under the Act and their enforcement.

The Central Government framed Coal Mines Bonus Scheme on the 3rd July, 1948 under the Ordinance and Coal Mines Provident Fund Scheme on the 11th December, 1948 under the Act after discussion in the Second Meeting of the Industrial Committee on Coal Mining held in September, 1948. These Schemes apply to all coal mines in West Bengal, Bihar, the Central Provinces and Berar and Orissa and have been brought into force on the 12th May, 1947 in respect of coal mines in West Bengal and Bihar and with effect from the 10th October, 1947 in respect of coal mines in the Central Provinces and Berar and Orissa.

Coal Mines Provident Fund Scheme.

The Coal Mines Provident Fund Scheme provides for compulsory membership of all colliery workers who qualify for bonus under the Coal Mines Bonus Scheme. The workers contribute, monthly or weekly, approximately one anna per rupee of their basic wage (total

¹ For detailed description of Coal Mines Bonus Scheme and Coal Mines Provident Fund Scheme, see Indian Labour Gazette, Vol. VI, August, 1948 (page 88) and March, 1949 (page 642) and Industry and Labour, Vol. I, May, 1949 (page 360).

cash emoluments excluding all payments for food concession, dearness, house rent and other similar allowances, overtime, bonus, commission, presents or donations) and the employers contribute an equal amount

Coal Mines Bonus Scheme.

Under the Coal Mines Bonus Scheme, every colliery worker is eligible for a bonus for the period during which his basic earnings do not exceed Rs 300/- or he is not employed as a mahi, sweeper or domestic servant. The scheme prescribes a period of attendance as a condition precedent for qualifying for a bonus. The amount of bonus payable to an employee in respect of any quarter after the 30th June 1948 in the case of coal mines in West Bengal and Bihar and in respect of any period or quarter in the case of coal mines in the Central Provinces and Berar and Orissa shall be one-third of the basic earnings of the employee. An employee taking part in an illegal strike in any period or quarter, forfeits his right to receive the bonus for that period or quarter. About 24 per cent of the workers on an average received bonus in the coalfields of Bengal and Bihar during the bonus period of 12th May 1947 to 31st December, 1947 and 40.3 per cent to 54.47 per cent on an average received bonus during the year 1948 in the collieries of the Central Provinces and Berar and Orissa.¹

Social Security for Colliery Labour.

The Preparatory Asian Regional Conference held in New Delhi in October-November 1947, unanimously recommended that the Governments of Asian countries, as a first step towards making adequate provisions against risks of old age and death, should take measures for the institution of compulsory provident funds for as many categories of workers as possible and in particular for all regulated labour and the extension of the scope of the existing state-managed insurance schemes or the introduction of such schemes for the benefit of persons of small means. This question was discussed in the Tenth Meeting of the Standing Labour Committee and the

¹ Reply to Starred Question No. 786 in the Constituent Assembly (Legislative), Indian Labour Gazette, April, 1949, page 742.

Ninth Session of the Indian Labour Conference both held in New Delhi in April, 1948 and there was general agreement about the institution of Provident Fund. It was pointed out on behalf of the Central Government that if the compulsory Provident Fund Scheme started in the coal fields of West Bengal, Bihar, Central Provinces where labour was mostly casual proved successful, it would not be difficult to introduce it in other industries and the Ministry of Labour would prepare a comprehensive scheme for other industrial workers.

During the final reading of the Coal Mines Provident Fund and Bonus Schemes Bill in the Constituent Assembly (Legislature), the Hon'ble Labour Minister assured the House that the Government was very anxious to introduce provident fund schemes for other industries as well and the Government stood committed to that. Workers' Provident Fund Bill, a non-official Bill by Sree R. K. Sidhwa, to provide for the establishment and grant of provident fund to certain class of workers by their employers, was introduced in the Dominion Parliament and was circulated for eliciting public opinion. It is hoped that the Government would bring a comprehensive bill for the establishment and grant of provident fund facilities to all classes of workers.

The institution of a compulsory provident fund for the colliery worker with a view to make some provisions in his old age is an important measure in the field of social security legislation in India. In reply to a starred question asked in the Constituent Assembly of India (Legislative) on the 25th August 1948, the Hon'ble Labour Minister replied that about $2\frac{1}{2}$ lakhs¹ of colliery workers were benefitted under the schemes. "The scheme will, in effect, change the status of the miner from helpless pauper in old age to a man of some means, with something to fall back upon, when his earning ceases."²

"Thus the Coal Mines Provident Fund and Bonus Schemes Act, 1948, may well prove to be an important landmark in the evolution in India of a system of statutory provision for the wage earner during his old age."³

¹ Reply to Starred Question No. 497, Indian Labour Gazette, September, 1948, page 184.

² Labour Minister's Broadcast talk on 5th September, 1948, Indian Labour Gazette, September, 1948, page 139.

³ A Decade of Labour Legislation in India, 1937-1948, International Labour Review, Vol. LIX, May, 1949, page 530.

COAL MINES PROVIDENT FUND AND BONUS SCHEMES ACT, 1948 (XLVI OF 1948)

Arrangement of Sections

1. Short title and extent.
2. Interpretation.
3. Coal Mines Provident Fund Scheme.
4. Fund to be recognised under Act XI of 1922
5. Coal Mines Bonus Scheme.
6. Retrospective operation of a scheme.
7. Modification of a scheme.
8. Protection against attachment.
9. Penalty.
10. Inspectors.
11. Priority of payment of contributions and bonus over other debts.
12. Repeal of Ordinance VII of 1948.
Schedule.

COAL MINES PROVIDENT FUND AND BONUS SCHEMES ACT, 1948¹ (XLVI OF 1948)

An Act to make provision for the framing of a Provident Fund Scheme and a Bonus Scheme for persons employed in coal mines.

Whereas it is expedient to make provision for the framing of a Provident Fund Scheme and a Bonus Scheme for persons employed in coal mines ;

It is hereby enacted as follows :—

1. Short title and extent.—(1) This Act may be called the Coal Mines Provident Fund and Bonus Schemes Act, 1948.

²[(2) It extends to all the Provinces of India and also to every acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.]

¹ For Statement of Objects and Reasons, see Gazette of India, dated the 21st August, 1948, Part V, p 604.

² This Sub-clause was substituted by the Repealing and Amending Act, 1949, (XL of 1949).

2. Interpretation.—In this Act, unless there is anything repugnant in the subject or context,—

- (a) “bonus” means any sum of money payable to an employee in a coal mine under the Coal Mines Bonus Scheme framed under this Act ;
- (b) “coal mine” means any excavation where any operation for the purpose of obtaining coal has been or is being carried on, and includes all works, machinery, tramways and sidings, whether above or below ground, in or adjacent to or belonging to a coal mine :

Provided that it shall not include any part of the coal mine on which a manufacturing process is being carried on unless such process is a process for coke-making or the dressing of minerals ;

- (c) “contribution” means the contribution payable in respect of a member under the Coal Mines Provident Fund Scheme framed under this Act ;
- (d) “employee” means any person who is employed in any kind of work, manual or otherwise, in or in connection with a coal mine and who gets his wages directly or indirectly from the employer ,
- (e) “employer” means the owner of a coal mine as defined in clause (g) of section 3 of the Indian Mines Act, 1923 (IV of 1923) ;
- (f) “Fund” means the provident fund established under the Coal Mines Provident Fund Scheme ; and
- (g) “member” means a member of the Fund.

3. Coal Mines Provident Fund Scheme.—(1) The Central Government may, by notification in the official Gazette, frame a scheme to be called the Coal Mines Provident Fund Scheme for the establishment of a provident fund for employees in coal mines and specify the coal mines to which the said scheme shall apply.

(2) Any scheme framed under the provisions of sub-section (1) may provide for all or any of the matters specified in the First Schedule.

4. Fund to be recognised under Act XI of 1922.—For the purposes of the Indian Income-tax Act, 1922 (XI of 1922), the Fund shall be deemed to be a recognised provident fund within the meaning of Chapter IX-A of that Act.

5. Coal Mines Bonus Scheme.—(1) The Central Government may, by notification in the official Gazette, frame a scheme to be called the Coal Mines Bonus Scheme for the payment of bonus to employees in coal mines and specify the coal mines to which the said scheme shall apply.

(2) A scheme framed under the provisions of sub-section (1) may provide for all or any of the matters specified in the Second Schedule

6. Retrospective operation of a scheme.—A scheme framed under this Act may provide that any of its provisions shall come into force either prospectively or retrospectively with effect from such date as may be specified in this behalf in the scheme.

7. Modification of a scheme.—The Central Government may, by notification in the official Gazette add to, amend or vary a scheme framed under this Act.

8. Protection against attachment.—(1) The amount of the provident fund standing to the credit of any member in the Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Court in respect of any debt or liability incurred by the member and neither the Official Assignee nor any Receiver appointed under the Provincial Insolvency Act, 1920 (V of 1920), shall be entitled to, or have any claim on, any such amount.

(2) Any amount standing to the credit of any member in the Fund at the time of his death and payable to his nominee under the Coal Mines Provident Fund Scheme shall, subject to any deduction authorised by the said scheme, vest in the nominee and shall be free from any debt or other liability incurred by the deceased or incurred by the nominee before the death of the member.

9. Penalty.—(1) Any scheme framed under this Act may provide that any person who contravenes any of the provisions thereof shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) No Court shall take cognizance of any offence punishable under any such scheme except on a report in writing of the facts constituting such offence made by an Inspector with the previous sanction of such authority as may be specified in this behalf by the Central Government.

10. Inspectors.—(1) The Central Government may, by notification in the official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of the Coal Mines Provident Fund Scheme or the Coal Mines Bonus Scheme and may define their jurisdiction

(2) An Inspector may, in respect of any coal mine within his jurisdiction,—

- (a) require an employer to furnish such information as he may consider necessary for the purposes of any scheme framed under this Act ;
- (b) at any reasonable time, enter any coal mine or its office and require any one found in charge thereof to produce before him such accounts, books, registers and other documents relating to the employment of persons in the coal mine as he may consider necessary ;
- (c) examine, with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the coal mine or its office or whom the Inspector has reasonable cause to believe to be or to have been an employee in the coal mine

(3) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (XLV of 1860)

11. Priority of payment of contributions and bonus over other debts.—The amount due in respect of any contribution or bonus under a scheme framed under this Act, or any charges incurred in respect of the administration of any such scheme, shall, where the liability therefore has accrued before the person liable has been adjudicated insolvent or, in the case of a company ordered to be wound up, before the date of such order, be deemed to be included among the debts which, under section 49 of the Presidency-towns Insolvency Act, 1909 (III of 1909), or under section 61 of the Provincial Insolvency Act, 1920 (V of 1920), or under section 230 of the Indian Companies Act, 1913 (VII of 1913), are to be paid in priority to all other debts in the distribution of the property of the insolvent or the assets of a company being wound up, as the case may be.

12. Repeal of Ordinance VII of 1948.—(1) The Coal Mines Provident Fund and Bonus Schemes Ordinance, 1948 (VII of 1948), is hereby repealed.

(2) Notwithstanding any such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act had commenced on the 23rd day of April, 1948

THE FIRST SCHEDULE

(SEE SECTION 3)

Matters to be provided for in the Coal Mines Provident Fund Scheme

1 The employees or class of employees who shall join the Fund, the contributions payable to the Fund and the conditions under which an employee may be exempted from joining the Fund or from payment of contributions

2 The payment of contributions to the Fund by the employees, or by the employers on behalf of the employees, the rate, time and manner of payment of such contributions, and the manner in which such contributions or part thereof shall be recovered from employees.

3. The payment by the employer of such sums of money as may be considered necessary to meet the cost of administering the Fund and the rate at which and the manner in which it shall be paid.

4. The constitution of a Board of Trustees consisting of nominees of the Central Government and representatives of employers and employees nominated by the Central Government in consultation with the representative organisations concerned, subject to the condition that the number of the representatives of the employees shall not be less than the number of the representatives of the employers; the number of Trustees and the terms and conditions under which they may be nominated, and the time, place and procedure of meetings of the Board.

5. The appointment of officers and servants of the Board and the opening of regional and other offices.

6. The manner in which accounts shall be kept, the investment of moneys belonging to the Fund, the preparation of a budget, the audit of accounts and the submission of reports to the Central Government.

7. The conditions under which withdrawals from the Fund may be permitted and any deduction or forfeiture may be made and the maximum amount of such deduction or forfeiture

8. The fixation of the rate of interest payable to members by the Central Government in consultation with the Board of Trustees

9. The form in which an employee shall furnish particulars about himself and his family when required.

10. The nomination of a person to receive the amount standing to the credit of a member after his death and the cancellation or the change of such nomination

11. The registers and records to be maintained by the employer and the returns to be furnished by him.

12. The form or design of an identity card or a token or a disc for purposes of identifying any employee and for the issue, custody and replacement thereof.

13. The fees to be levied for any of the purposes specified in this Schedule

14. Any other matter which may be necessary or proper for the purpose of implementing the Coal Mines Provident Fund Scheme

THE SECOND SCHEDULE

(SEE SECTION 5)

Matters to be provided for in the Coal Mines Bonus Scheme.

1. The payment of bonus dependent on the attendance of an employee in a coal mine during any period

2. The employees or class of employees who shall be eligible for the bonus and the conditions of eligibility.

3. The rate at which the bonus shall be payable to an employee and the manner in which the bonus shall be calculated

4. The conditions under which an employee may be debarred from getting the bonus in whole or in part.

5. The rate at which sums shall be set apart by the employer for payment of bonus, and the time and manner of such payment.

6. The registers and records to be maintained by the employer and the returns to be furnished by him.

7. Any other matter which may be necessary or proper for the purpose of implementing the Coal Mines Bonus Scheme.

COAL MINES BONUS SCHEME, 1948

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COAL MINES BONUS SCHEME, 1948.¹

In exercise of the powers conferred by section 6 of the Coal Mines Provident Fund and Bonus Schemes Ordinance, 1948 (VII of 1948)² the Central Government is pleased to frame the following Coal Mines Bonus Scheme, namely:—

1. *Short title and application.*—(i) This Scheme may be called the Coal Mines Bonus Scheme.

(ii) It shall apply to all coal mines in West Bengal, Bihar, the Central Provinces and Berar and Orissa.

(iii) The provisions of this Scheme shall be deemed to have come into force on the twelfth of May 1947 in respect of the coal mines in West Bengal and Bihar and on the tenth of October 1947 in respect of the coal mines in the Central Provinces and Berar and Orissa.

2. *Definitions*—In this Scheme unless there is anything repugnant in the subject or context—

(a) “category I employee” means an underground miner or any other underground piece worker ,

¹ This Scheme was published under Ministry of Labour Notification No. PF 16(1)/48, dated the 3rd July, 1948.

² Section 12 of Act XLVI of 1948 has repealed the Ordinance, but has legalised the action taken under the Ordinance

- (b) "category II employee" means an employee in a coal mine other than a category I employee ;
- (c) "Chief Inspector of Mines" has the meaning assigned to it in sub-section (1) of Section 4 of the Indian Mines Act, 1923 (IV of 1923) ;
- (d) "illegal strike" means a strike which is illegal within the meaning of section 24 of the Industrial Disputes Act, 1947 (XIV of 1947) ;
- (e) "quarter" means a period of three calendar months commencing on the first of January, the first of April, the first of July and the first of October of each year ,
- (f) "Ordinance" means the Coal Mines Provident Fund and Bonus Schemes Ordinance, 1948 (VII of 1948) ,
- (g) "Regional Labour Commissioner" means an officer appointed as such by the Central Government ; and
- (h) "temporary disablement" means a condition resulting from a personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment in a coal mine, which requires medical treatment and renders the employee temporarily incapable of work and which entitles such employee to compensation under the Workmen's Compensation Act, 1923 (VIII of 1923)

3. Class of employees eligible to qualify for bonus.—Except as hereinafter provided, every employee in a coal mine to which this Scheme applies shall be eligible to qualify for a bonus.

Exceptions.—An employee in a coal mine shall not be entitled to a bonus under the Scheme for the period during which—

- (a) his basic earnings exceed three hundred rupees per month; or
- (b) he is employed as a mali, sweeper or domestic servant on domestic and personal work ; or
- (c) he is employed in a State Railway Coal mine on pay and under conditions of service, which for the time being, are similar to those obtaining in other Railway establishments ; or
- (d) he is employed as a labourer of a contractor for building, brick making or tile making.

4. *Qualification for bonus in coal mines in West Bengal and Bihar*—An employee in a coal mine in West Bengal or Bihar shall qualify for a bonus from his employer—

- (a) in respect of the period from the twelfth of May 1947 to the thirty first of December 1947, provided he has put in attendance in the coal mine during that period for not less than 121 days if a category I employee, or for not less than 169 days if a category II employee,
- (b) in respect of the quarter commencing on the first of January 1948 or any subsequent quarter, provided he puts in attendance in the coal mine during that quarter for not less than 54 days if a category I employee, or for not less than 66 days if a category II employee

5. *Qualification for bonus in coal mines in the Central Provinces and Berar and Orissa*.—An employee in a coal mine in the Central Provinces and Berar or Orissa shall qualify for a bonus from his employer—

- (a) in respect of the period from the tenth of October 1947 to the ninth of January 1948, provided he has put in attendance in the coal mine during that period for not less than 60 days if a category I employee, or for not less than 65 days if a category II employee;
- (b) in respect of the period from the tenth of January, 1948 to the thirty first of March, 1948, provided he has put in attendance in the coal mine during that period for not less than 54 days if a category I employee, or for not less than 59 days if a category II employee;
- (c) in respect of the quarter commencing on the first of April, 1948, or any subsequent quarter, provided he puts in attendance in a coal mine during that quarter for not less than 60 days if a category I employee, or for not less than 65 days if a category II employee.

6. *Allowance for leave etc.*—(1) For the purposes of paragraphs 4 and 5 of this Scheme, leave (including sick leave) granted by the employer to an aggregate of 21 days in a calendar year and days of idleness caused by any temporary breakdown of machinery or any other technical reason shall count as days of attendance.

(2) If on any working day in any period or quarter, as the case may be, an employee is on maternity leave or is unable to attend

work owing to temporary disablement, the number of days for which he must put in attendance to qualify for bonus under paragraphs 4 and 5 shall be reduced by 70 per cent. of such working days if a category I employee, or by 85 per cent of such working days if a category II employee.

Explanation—In calculating the 70 per cent or 85 per cent of such working days, a fraction less than half shall be disregarded and not less than half shall count as one.

(3) If in any period or quarter any day, other than the weekly holiday, is observed as a closed holiday in any coal mine, the number of days for which the employees must put in attendance in such period or quarter to qualify for bonus under paragraphs 4 and 5 shall be reduced, in respect of such coal mine, by one if there be not more than two such closed holidays, by two if there be more than two but not more than four such closed holidays and by three if there be more than four such closed holidays: Provided that the number of days so reduced in a year shall not exceed three. In the event of a dispute as to whether a day is a closed holiday or not, the decision of the Chief Inspector of Mines shall be final.

7. *Amount of bonus.*—(1) The amount of bonus payable to an employee in a coal mine in West Bengal or Bihar in respect of the period from the twelfth of May 1947 to the thirty first of December 1947, the quarter commencing on the first of January 1948 and the quarter commencing on the first of April 1948, shall be calculated in the manner specified in the Schedule annexed hereto.

(2) The amount of bonus payable to an employee in respect of any quarter after the thirtieth of June 1948 in the case of coal mines in West Bengal and Bihar and in respect of any period or quarter in the case of coal mines in the Central Provinces and Berar and Orissa shall be one-third of the basic earnings of the employee for work done in that period or quarter in the coal mine wherein he qualifies for bonus.

(3) Unless an employee entitled to a bonus is a member of a provident fund, recognised under the Indian Income Tax Act, 1922 (XI of 1922), or to which the Provident Funds Act, 1925 (XIX of 1925) applies, the employer shall, before paying him the amount of bonus, deduct a sum equivalent to three annas in a rupee of the amount of bonus in respect of the periods or quarters from the twelfth of May 1947 to the thirtieth of September 1948 in the case

of coal mines in West Bengal and Bihar and from the tenth of January 1948 to the thirtieth of September 1948 in the case of coal mines in Central Provinces and Berar and Orissa, for credit to the account of the employee in the Coal Mines Provident Fund.

8. Effect of participation in illegal strike—(1) If an illegal strike takes place in a coal mine in any period or quarter, no bonus shall be payable in respect of the period or quarter, as the case may be, to all those who participate in such illegal strike.

Provided that in the case of any coal mine in West Bengal or Bihar, the Central Government may, if, in view of any special circumstances it considers it to be so expedient, direct that for participation in an illegal strike or strikes in each of the periods from the twelfth of May 1947 to the eleventh of August 1947, from the twelfth of August 1947 to the eleventh of November 1947 and from the twelfth of November 1947 to the thirty first of December 1947 an employee shall be disqualified for one-third of the amount of bonus to which he would, but for such participation, be entitled.

(2) If any dispute arises whether a strike is legal or illegal for the purposes of this Scheme, the employer or an employee may make an application to the Regional Labour Commissioner having jurisdiction in the area in which the coal mine is situated for decision whether the strike is legal or illegal.

(3) The Regional Labour Commissioner shall, on payment of such fee as may be specified by him, give a copy of the decision to the employer or an employee asking for the same.

(4) An appeal from the decision of the Regional Labour Commissioner shall lie to the Industrial Tribunal at Dhanbad whose decision shall be final.

(5) The period of limitation for appeal under this paragraph shall be thirty days from the date of the order appealed from.

(6) The provisions of sections 5 and 12 of the Indian Limitation Act, 1908 (XL of 1908), shall apply to appeals under this paragraph.

(7) The Regional Labour Commissioner or the Tribunal shall decide the dispute after giving reasonable notice to the parties interested in the dispute and after affording them an opportunity of being heard.

9. When bonus payable.—(1) The bonus in respect of a period or quarter up to the thirtieth of June 1948 shall be paid to an employee entitled to it at such time and in such manner as the Central Government may, by order, direct.

(2) The bonus in respect of the quarter commencing on the first of July 1948 or any subsequent quarter shall be paid to an employee entitled to it within a period of two months from the last date of the quarter.

(3) Any bonus paid to an employee before the date on which this Scheme is notified, in respect of a period or quarter for which bonus is payable as herein provided shall be deemed to have been paid under this Scheme

(4) A bonus due before the date of notification of this Scheme shall, if not paid earlier, be paid within six weeks from the date of such notification

10. Returns.—Within a period of one month from the last date by which any bonus is required to be paid under the provisions of paragraph 9, the employer shall submit returns in Forms I and II to the Regional Labour Commissioner having jurisdiction in the area in which the coal mine is situated.

11. Registers—(1) Every employer shall from the first of October 1948 maintain a register of persons employed underground in his coal mine in Form III and the register shall show at any moment the name of every person then working underground

(2) All entries in this register shall be made at the entrance or entrances to the coal mine when the persons against whose name entries are made enter or leave the coal mine

(3) Every employer shall from the first of October 1948 maintain a register of persons employed in open workings and on the surface in Forms IV and V respectively. The register shall be kept at the office of the coal mine or at some other building at a convenient place not far from the coal mine

(4) The registers required to be maintained by sub-paragraphs (1) and (3) shall be preserved for twelve months after the date of the last entry made therein.

12. Penalties.—(1) Any employer who—

(a) refuses, or without reasonable cause, fails to pay any bonus within the period specified for the payment thereof to a person entitled to it under this Scheme; or

(b) makes any false entry or statement in any return or register required to be sent or maintained under this Scheme with a view to avoiding payment, or reducing the amount, of any bonus payable under this Scheme; or

- (c) fails to maintain up to date and in the manner prescribed the registers required under paragraph 11 of this Scheme,

shall be punishable with imprisonment for a term which may extend to six months or with fine not exceeding one thousand rupees or with both

(2) Any employer who fails to furnish any return required under paragraph 10 of this Scheme shall be punishable with fine not exceeding one thousand rupees.

SCHEDULE

(See paragraph 7)

Amount of Bonus (before deduction for provident fund payable in coal mines in West Bengal and Bihar) for the period from 12th May 1947 to 31st December 1947

Piece-rated employees.

- (a) Underground piece workers (including underground piece-rated trammers and surface piece-rated trammers and male wagon loaders) (assumed daily basic wage—12 annas)

Rs 49/14/- each.

- (b) Male Surface piece-rated workers (other than surface piece-rated trammers and male wagon loaders) (assumed daily basic wage—8 annas).

Rs. 33/4/- each.

- (c) Female wagon loaders on piece work (assumed daily basic wage—7½ as)

Rs 31/3/- each.

- (d) Other females and minors on piece work (assumed daily basic wage—5 as)

Rs 20/12/- each

Other employees.

For the monthly rated employees the amount stated in Table A against the basic wage payable for the last month of the period and for other employees the amount as stated in table B against the basic

wage payable for the first working day of the last month of the period, irrespective of whether or not the employee actually attended work in that month or on that day. For weekly rated employees the basic wage payable for the first working day of the last month of the period shall be taken to be one-sixth of the basic wage payable if the employee had attended work throughout the week containing that day

**For the quarter from 1st January 1948 to 31st March 1948
and from 1st April 1948 to 30th June 1948.**

Piece-rated employees.

- (a) Underground piece workers (including underground piece-rated trammers and surface piece-rated trammers and male wagon loaders) (assumed daily basic wage—12 as)
Rs. 19/8/- each.
- (b) Male surface piece-rated workers (other than surface piece-rated trammers and male wagon loaders) (assumed daily basic wage—8 as)
Rs. 13/- each
- (c) Female wagon loaders on piece work (assumed daily basic wage—7½ as.).
Rs. 12/3/- each
- (d) Other females and minors on piece work (assumed daily basic wage—5 annas).
Rs. 8/2/- each

Other employees.

Monthly rated employees—Basic pay for the last month of the quarter.

Other time-rated employees—26 times the basic wage payable for the first working day of the last month of the quarter and for the weekly rated worker 26 times the daily rate of basic wage for the last complete week of the quarter irrespective of whether or not the employee actually worked on that day or in that week.

Explanation.—A weekly rated worker is a worker whose wage is expressed as a stated amount per week as opposed to a daily rated worker who is paid a stated amount per day, but who receives his earning weekly.

TABLE A		TABLE B	
Basic wage per month	Gross amount of Bonus	Basic wage per day	Gross amount of Bonus
Rs as	Rs as.	Rs as	Rs as
0 4	0 10	0 5	20 12
0 8	1 4	0 6	24 15
1 0	2 9	0 7	29 1
2 0	5 2	0 7½	31 3
3 0	7 11	0 8	33 4
4 0	10 4		
5 0	12 13	0 9	37 6
20 0	51 2	0 10	41 9
25 0	63 15	0 11	45 11
		0 12	49 14
		0 13	54 0
30 0	76 12	0 14	58 3
40 0	102 5	0 15	62 5
50 0	127 14	1 0	66 8
60 0	153 7		
70 0	179 0	1 1	70 10
80 0	204 9	1 2	74 13
90 0	230 3	1 3	78 15
100 0	255 12	1 4	83 2
		1 5	87 4
		1 6	91 7
110 0	281 5	1 7	95 9
120 0	306 14	1 8	99 12
130 0	332 7		
140 0	358 1	1 9	103 14
150 0	383 10	1 10	108 1
160 0	409 3	1 11	112 3
170 0	434 12	1 12	116 6
180 0	460 5	1 13	120 8
190 0	485 14	1 14	124 11
200 0	511 8	1 15	128 13
		2 0	133 0
210 0	537 1	2 1	137 2
220 0	562 10	2 2	141 5
230 0	588 3	2 3	145 7
240 0	613 12	2 4	149 10
250 0	639 6	2 5	153 12
260 0	664 15	2 6	157 15
270 0	690 8	2 7	162 1
280 0	716 1	2 8	166 4
290 0	741 10		
300 0	767 3	2 9	170 6
		2 10	174 9
		2 11	178 11
		2 12	182 14
		2 13	187 0
		2 14	191 3
		2 15	195 5
		3 0	199 8

FORM I

(See Paragraph 10)

Name of employer

Address

Employee No

Period or Quarter

194

Nature of employment	No of employees who worked in the coal mine in the period or quarter	No of employees who qualified for bonus for the period or quarter	Amount of bonus payable	Period or Quarter		Amount of bonuses out of (3) to whom bonuses have actually been paid	Amount of bonuses out of (4) actually paid	No of employees to whom bonuses have not been paid	Amount of bonus due but not paid
1	2	3	4	5	6	7	8		

Supervisory & clerical

Underground.

Miners and other underground piece workers

Other underground workers,

Others.

Men

Women

Minors

Total

FORM III
(See Paragraph 11)

All entries to be made in English.

Register of persons employed underground during the week commencing and ending 19

Number of Relay

Hours of Relay..

Name of Mine
Name of Owner

(TIME SHOULD BE RECORDED AGAINST AN ENTRY WHEREVER IT
DIFFERS FROM THE HOURS OF RELAY STATED ABOVE)

Serial No.	Name of person	Nature of work	Relay		Sunday		Monday		Tuesday		Wednesday		Thursday		Friday		Saturday		Number of days worked during the week	Hours worked during week	Remarks
			in	out	in	out	in	out	in	out	in	out	in	out	in	out	in	out			
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	

Weekly Abstract
Classification

Miners and loaders
Others

Aggregate number of attendances during the week Aggregate number of absentees during the week

MANAGER

Date

Signature of Register Keeper
Date

FORM IV
(See paragraph 11)

30 *All entries to be made in English.*

Register of persons employed in Open Workings during the week commencing and ending 19

Number of Relay Hours of Relay

Name of Mine
Name of Owner

(TIME SHOULD BE RECORDED AGAINST AN ENTRY WHEREVER IT
DIFFERS FROM THE HOURS OF RELAY STATED ABOVE)

Serial No.	Name of person	Nature of work	Relay		Sunday		Monday		Tuesday		Wednesday		Thursday		Friday		Saturday		Number of days worked during the week.	Hours worked during week	Remarks
			in	out	in	out	in	out	in	out	in	out	in	out	in	out	in	out			
1		3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	

*Weekly Abstract
Classification.*

Miners and loaders.
Others

Aggregate number of attendances during the week Aggregate number of absences during the week

MANAGER

Signature of Register Keeper

Women

Date

Date

FORM V (See paragraph 11)

All entries to be made in English.

Number of Relay
Hours of Relay.. .. . and ending ... 19 .

Register of persons employed on surface during the week commencing

Name of Mine
Name of Owner.

(TIME SHOULD BE RECORDED AGAINST AN ENTRY WHEREVER IT
DIFFERS FROM THE HOURS OF RELAY STATED ABOVE)

Serial No.	Name of person	Nature of work	Relay		Sunday		Monday		Tuesday		Wednesday		Thursday		Friday		Saturday		Number of days worked during the week.	Hours worked during week.	Remarks
			in	out	in	out	in	out	in	out	in	out	in	out	in	out	in	out			
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	

Classification.

Weekly Abstract

Men

Women

Aggregate number of attendances during the week. Aggregate number of absentees during the week.

MANAGER

Date

Signature of Register Keeper

Date

COAL MINES PROVIDENT FUND SCHEME, 1948

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COAL MINES PROVIDENT FUND SCHEME, 1948¹

In exercise of the powers conferred by section 3 of the Coal Mines Provident Fund and Bonus Schemes Act, 1948 (XLVI of 1948), the Central Government is pleased to frame the following Coal Mines Provident Fund Scheme, namely :—

1. Short title and application.—(i) This Scheme may be called the Coal Mines Provident Fund Scheme.

(ii) It shall apply to all coal mines in West Bengal, Bihar, the Central Provinces and Berar and Orissa

(iii) The provisions of this Scheme shall be deemed to have come into force with effect from the twelfth of May 1947 in respect of coal mines in West Bengal and Bihar and with effect from the tenth of October 1947 in respect of coal mines in the Central Provinces and Berar and Orissa.

2. Definitions.—In this Scheme, unless there is anything repugnant in the subject or context—

(a) “Act” means the Coal Mines Provident Fund and Bonus Schemes Act, 1948 (XLVI of 1948) ;

(b) “basic wages” means the total cash emoluments, whether earned while on duty or while on leave with pay, but excluding all payments for food concession, dearness, house rent and other similar allowances, overtime, bonus, commission, presents or donations ;

(c) “Board” means the Board of Trustees constituted under paragraph 3 of this Scheme ;

(d) “children” means legitimate children and includes adopted children if the Executive Committee is satisfied that under the personal law of the member, adoption of a child is legally recognised ;

¹ This Scheme was published under Ministry of Labour Notification No PF. 15(5)/48, dated the 11th December, 1948

- (e) "Commissioner" means the Coal Mines Provident Fund Commissioner appointed under paragraph 23 of this Scheme ;
- (f) "Committee" means the Executive Committee constituted under sub-paragraph (2) of paragraph 3 of this Scheme :
- (g) "excluded employee" means an employee who, having been a member of the Fund once, withdrew the full amount of his accumulations in the Fund on permanent retirement after attainment of the age of 50 years or on retirement on account of total incapacity due to bodily or mental infirmity ;
- (h) "family" means—
 - (i) in the case of a male member, the wife, children, and dependent parents of the member, and the widow and children of a deceased son of the member :

Provided that if a member proves that his wife has ceased under the personal law governing him or the customary law of the community to which the spouse belongs to be entitled to maintenance she shall no longer be deemed to be a part of the member's family in matters to which this Scheme relates, unless the member subsequently intimates by express notice in writing to the Commissioner that she shall continue to be so regarded ; and

- (ii) in the case of a female member, the husband and children of the member, the dependent parents of the husband, and the widow and children of a deceased son of the member :

Provided that if a member by notice in writing to the Commissioner expresses her desire to exclude her husband from the family, the husband shall no longer be deemed to be a part of the member's family in matters to which the Scheme relates, unless the member subsequently cancels in writing any such notice.

Explanation —In either of the above two cases, if the child of a member has been adopted by another person and if, under the personal law of the adopter, adoption is legally recognised such a child shall be considered as excluded from the family of the member ;

- (i) "Inspector" means a person appointed as such under section 10 of the Act ;
- (j) "member" shall have the meaning assigned in the Act and shall include initial member ;

- (k) "period of membership" means in respect of a member the period beginning with the date from which the first contribution is paid in respect of such member and ending with the date of the application on which he is permitted to withdraw the amount standing to his credit in the Fund under paragraph 63 ;
- (l) "quarter" means a period of three calendar months commencing on the first of January, the first of April, the first of July and the first of October of each year ;
- (m) "wages" has the meaning assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936 (IV of 1936) ;

3. *Composition of Board of Trustees and Executive Committee.*

—(1) The Fund shall be administered by a Board of Trustees to be constituted by the Central Government consisting of the following persons, namely :—

- (a) a Chairman, nominated by the Central Government ;
- (b) not more than six persons, to be nominated by the Central Government, of whom at least three shall be officials of that Government ;
- (c) (i) two persons, nominated by the Indian Mining Association ;
 - (ii) one person, nominated by the Indian Mining Federation ;
 - (iii) one person, nominated by the Indian Colliery Owners' Association ;
 - (iv) one person, nominated by the C. P. and Berar Mining Association ;
 - (v) one person, nominated by the Central Government to represent other employers ;
- (d) six persons, representing employees in coal mines to be nominated by the Central Government of whom—
 - (i) five shall be nominated in consultations with such organisations of employees as may be recognised by the Central Government, at least one nominee being an employee and
 - (ii) one shall represent the employees outside the organisations :

Provided that if any of the bodies referred to in sub-clauses (i) to (iv) of clause (c) fails to make the nomination within a period

of thirty days from the date on which the Central Government asks for it, the Central Government may itself make the nomination

(2) An Executive Committee of the Board shall be constituted from among the trustees, consisting of.—

- (a) a Chairman, nominated by the Central Government ;
- (b) two persons, nominated by the Central Government from among the trustees nominated under clause (b) of sub-paragraph (1) ,

(c) four persons, elected at the annual meeting of the Board as follows :—

- (i) two persons, from among the trustees nominated under clause (c) of sub-paragraph (1) ,
- (ii) two persons, from among the trustees nominated under clause (d) of sub-paragraph (1).

(3) The Minister for Labour in the Government of India may attend any meeting of the Board or of the Committee and when he so attends, he shall preside at the meeting.

(4) The Secretary to the Government of India in the Ministry of Labour may also attend any meeting of the Board or of the Committee and when he so attends, he shall, unless the Minister for Labour is also present, preside at the meeting.

4. Terms of office.—(1) Save as otherwise expressly provided in this Scheme, the term of office of the trustees other than those referred to in clauses (a) and (b) of sub-paragraph (1) of paragraph 3 shall be five years commencing on the date on which their nomination is notified in the Official Gazette :

Provided that a trustee shall notwithstanding the expiry of the said period of five years continue to hold office until the nomination of his successor is notified.

(2) The trustee referred to in clauses (a) and (b) of sub-paragraph (1) of paragraph 3 shall hold office during the pleasure of the Central Government.

(3) The trustees elected to the Committee shall hold office as members of the said Committee till the date of the next annual meeting of the Board :

Provided that a member of the Committee shall cease to hold office when he ceases to be a trustee.

(4) The persons nominated by the Central Government to the Committee shall hold office during the pleasure of the Central Government.

(5) An out-going trustee or member of the Committee shall be eligible for renomination or re-election as the case may be

5. Resignation—A trustee or member of the Committee may resign his office by notice in writing to the Central Government and his seat shall fall vacant on the acceptance of the resignation by that Government

6. Cessation of membership—A trustee or member of the Committee shall cease to be such trustee or member, if he fails to attend three consecutive meetings of the Board or the Committee without obtaining leave of absence from the Chairman of the Board or the Committee, as the case may be.

Provided that the Central Government may restore him to trusteeship or membership, as the case may be, if it is satisfied that there were reasonable grounds for the absence.

7. Removal from membership—The Central Government may remove from office any trustee if it is satisfied that the trustee has ceased to represent the interests on whose behalf he was nominated. The trustee so removed shall cease to be a member of the Committee if he is on the Committee.

8. Absence from India.—(1) Before a non-official trustee leaves India—

(a) he shall intimate to the Chairman of the Board and if he is also a member of the Committee the Chairman of the Committee of the dates of his departure from and expected return to India, or

(b) if he intends to absent himself for a longer period than six months, he shall tender his resignation.

(2) If any trustee leaves India without intimation to the Chairman of the Board, he shall be deemed to have resigned from the Board with effect from the date of his departure from India.

9. Filling of vacancies—(1) Not less than one month but not earlier than two months before the tenure of trustees other than trustees nominated by the Central Government is to expire, or when any casual vacancy occurs among any such trustees, the Central Government shall, by notice in writing, call upon the body concerned

to nominate a person to fill the vacancy and such nomination shall be made within thirty days of the date of issue of such notice :

Provided that if any body fails to make the nomination within the period specified, the Central Government may itself nominate a person and fill the vacancy.

(2) Vacancies in the office of nominated or elected trustees or members of the Committee shall be filled by nomination or election as the case may be :

Provided that the Central Government may nominate a trustee to fill a vacancy in the office of an elected member of the Committee until such time as the next meeting of the Board is held.

(3) A trustee or member of the Committee nominated or elected to fill a casual vacancy shall hold office only for so long as the member in whose place he is nominated or elected would have been entitled to hold office if the vacancy had not occurred.

10. *Vacation of office.*—A person shall be disqualified for being a trustee—

(a) if he is declared to be of unsound mind by a competent Court ; or

(b) if he is an undischarged insolvent ; or

(c) if he has been convicted of any offence which in the opinion of the Central Government involves moral turpitude.

11. *Authentication of orders, decisions etc.*—All orders and decisions of the Board or the Committee shall be authenticated by the signature of its Chairman or by some other officer or member of the Board or Committee, as the case may be, authorised by it in this behalf.

12. *Powers of the Executive Committee.*—Subject to the general superintendence and control of the Board, the Committee shall administer the affairs of the Fund and may exercise such powers and perform such functions as may be delegated to it by the Board.

13. *Disposal of business*—(1) Every question which is to be considered by the Board shall be considered either at its meeting or, if the Chairman so directs, by sending the necessary papers to all the trustees for their opinion :

Provided that the papers need not be sent to a trustee who is absent from India at that time.

(2) When a question is referred under sub-paragraph (1) for opinion, any trustee may request that the question be considered at

a meeting of the Board and thereupon, the Chairman, may, and if the request is made by not less than three trustees, shall, direct that it be so considered.

(3) Every question which the Committee is required to take into consideration shall be considered at a meeting of the Committee

14. Meetings of Board of Trustees and Executive Committee—The Board and the Committee shall meet at such place and time as may be appointed by the Chairman of the Board or the Committee as the case may be.

15. Notice of meeting and list of business.—(1) Notice of not less than fifteen days from the date of posting shall be given of the time and place fixed for each ordinary meeting of the Board or of the Committee to every trustee or, as the case may be, to every member of the Committee present in India and to such notice shall be attached a list of business to be discussed at the meeting :

Provided that when the Chairman calls a meeting for considering any matter which in his opinion is urgent, a notice giving such reasonable time as he may consider necessary, shall be deemed sufficient.

(2) No business which is not on the list shall be considered at the meeting except with the permission of the Chairman.

16. Presiding at meeting.—The Chairman of the Board or of the Committee as the case may be, shall, save as provided in subparagraphs (3) and (4) of paragraph 3, preside at every meeting of the Board or of the Committee at which he is present. If the Chairman is absent at any time, the trustees, or the members of the Committee, present shall elect one of their number to preside over the meeting and the trustee or member so elected shall at that meeting exercise all the powers of the Chairman.

17. Quorum.—(1) No business shall be transacted at a meeting of the Board, whether ordinary or emergent, unless at least seven trustees are present of whom at least two shall be trustees nominated under clause (c) and at least two nominated under clause (d) of subparagraph (1) of paragraph 3.

(2) No business shall be transacted at a meeting of the Committee, whether ordinary or emergent, unless at least four members are present of whom at least one shall be a member elected under sub-clause (i) and at least one elected under sub-clause (ii) of clause (c) of sub-paragraph (2) of paragraph 3.

(3) If at any meeting the number of trustees or members of the Committee, as the case may be, is less than the required quorum, the Chairman shall adjourn the meeting to a date not less than seven days later informing the trustees or members present and also the other trustees or members of the date, time and place of the adjourned meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting whether the quorum is secured or not

18. Recommendation by majority.—(1) Every question at a meeting of the Board or the Committee shall be decided by a majority of votes of the Trustees or members of the Committee present and voting, but the minority may require their dissent to be noted.

(2) Every question referred to the trustees for opinion shall, unless the Chairman in pursuance of sub-paragraph (2) of paragraph 13 reserves it for consideration at a meeting, be decided in accordance with the opinions received within the time limit allowed

(3) In the case of equality of votes or opinions, the Chairman shall exercise an additional vote or opinion

19. Minutes of meetings—(1) The proceedings of a meeting of the Board or of the Committee shall be circulated to all trustees or members, as the case may be, present in India and thereafter they shall be recorded in a minute book to be kept as a permanent record.

(2) The record of the proceedings of each meeting shall be signed by the Chairman after confirmation at the next meeting.

20. Acts of the Board etc. not invalid by reason of defect in constitution etc.—No Act of the Board or the Committee shall be deemed to be invalid by reason of any defect in the constitution of the Board or the Committee or on the ground that any trustee or member thereof was not entitled to hold or continue in office by reason of any disqualification or of any irregularity in his nomination or election or by reason of such act having been done during the period of any vacancy in the Board or the Committee

21. Fees and allowances.—(1) The travelling allowance of an official trustee shall be governed by the rules applicable to him for journeys performed on official duty and shall be paid by the authority paying his salary.

(2) Every non-official trustee shall be paid an allowance of Rs. 12-8 for each day on which he attends a meeting of the Board and/or the Committee and travelling allowance at 1½ railway fares of the highest class from and to his usual place of business or from

and to the place the journey is actually performed whichever is less, plus road mileage at annas eight per mile for the journey not covered by railway.

NOTE—(1) No daily or travelling allowance in respect of any day or journey, as the case may be, shall be claimed from the Fund by a trustee if he has drawn or will draw allowance for the same from his employer or as a member of the Legislature or of any Committee or Conference of Government and no travelling allowance shall be claimed if he uses a means of locomotion provided at the expense of Government or his employer

NOTE—(2) Where the journey is performed by road between places connected by railway, road mileage shall be paid only if the trustee concerned certifies that the journey was undertaken by road to avoid loss of time which the journey by railway would have entailed and the distance travelled does not exceed 75 miles in a single journey

22. Powers of the Central Government until the Board is constituted—(1) Until the Board of Trustees is constituted the Central Government shall administer the affairs of the Fund and may exercise any of the powers and perform any of the functions of the Board.

(2) All property acquired before the Board is constituted shall vest in the Board and all income derived and expenditure incurred in this behalf shall be brought into the books of the Fund

23. Coal Mines Provident Fund Commissioner.—(1) The Central Government may appoint a Coal Mines Provident Fund Commissioner who shall be the Chief Executive Officer of the Fund and shall be subject to the general control and superintendence of the Board and the Committee.

(2) The Commissioner shall be a whole time officer of the Fund and shall not undertake any work not connected with his office without the sanction of the Central Government.

(3) The Commissioner shall hold office for such period, not exceeding 5 years, as may be specified in the order appointing him. An out-going Commissioner shall be eligible for re-employment if he is otherwise qualified.

(4) The Commissioner shall receive such salary and allowances and be subject to such other conditions of service as may be specified by the Central Government from time to time.

(5) A person shall be disqualified from being the Commissioner if he is subject to any of the disqualifications specified in paragraph 10.

(6) The Central Government may at any time remove the Commissioner from office and shall do so if such removal is recommended

by a resolution of the Board passed at a special meeting called for the purpose and supported by the votes of not less than two thirds of the total strength of the Board.

24. Staff.—(1) The Board may employ such staff as may be necessary for the efficient administration of this Scheme :

Provided that the sanction of the Central Government shall be obtained for the creation of any post with maximum salary of Rs. 500 and above, and the duration of which is likely to be more than six months.

(2) The Board shall, with the approval of the Central Government, make regulations regarding the method of recruitment, pay and allowances, discipline, superannuation benefits and other conditions of service of the members of its staff :

Provided that the scale of pay and allowances of the members of the staff shall generally be in accordance with the scales sanctioned by the Central Government for similar posts.

(3) Every appointment to posts carrying a starting monthly salary of Rs. 275 and above shall be made by the Central Government.

(4) Persons appointed by the Board and paid from the Fund shall not be deemed to be Government servants notwithstanding that the Central Government may direct that any service rules applicable to Government servants may apply with or without modifications to such persons.

25. Class of employees required to join the Fund —(1) Every employee in a coal mine to which this Scheme applies, other than an excluded employee, shall be required to join the Fund and become a member immediately after the end of the quarter following any quarter after the thirtieth of September 1948, in which he qualified for a bonus under sub-paragraph (b) of paragraph 4 or sub-paragraph (c) of paragraph 5 of the Coal Mines Bonus Scheme.

(2) Every employee in a coal mine to which this Scheme applies, other than an excluded employee, shall be required to become a member of the Fund (hereinafter called the "initial member") from the beginning of the first period or quarter before the first of October 1948, in respect of which he qualifies for a bonus under paragraph 4 or paragraph 5 of the Coal Mines Bonus Scheme :

Provided that an initial member, who has received before the first of October 1948, from his employer the full amount of his as

well as the employer's contribution on his leaving employment in the coal mining industry, shall cease to be an initial member.

Explanation—An employee whose basic wages exceed three hundred rupees per month from the date on which the Scheme is deemed to have come into force or from the date on which he begins work in a coal mine to which the Scheme applies cannot qualify for membership of the Fund so long as his basic wages continue to exceed three hundred rupees per month since he cannot qualify for a bonus under the Coal Mines Bonus Scheme. An employee whose basic wages exceed three hundred rupees per month subsequent to his qualifying for membership will be required to continue his membership and contributions restricted to the maximum shown in Table I in paragraph 27 will continue to be payable.

26. Election for continuance of membership of certain other Provident Funds.—(1) Notwithstanding anything to the contrary contained in paragraph 25, a subscriber to a Provident Fund recognised under the Indian Income Tax Act, 1922 (XI of 1922), or to which the Provident Funds Act 1925 (XIX of 1925), applies, may elect to continue as a subscriber thereto and if he does so, he shall not be required to or be entitled to become a member of the Fund.

(2) The election referred to in sub-paragraph (1) shall be made in Form C annexed hereto as soon as possible after he qualifies for membership of the Fund and shall be sent by the employer by registered post to the Commissioner so as to reach him within six months of the date on which the Scheme is notified or within six weeks of the end of the period or quarter in which he qualifies for membership of the Fund under paragraph 25, whichever is later.

27. Rates of contribution.—(1) Contributions shall be payable under this Scheme in respect of every member, whether an initial member or not, employed directly or indirectly in any coal mine to which this Scheme applies in respect of each month or week, as the case may be, for the whole or part of which he is so employed after the 31st of December 1948 and shall comprise contribution by the member and contribution by the employer at the rates specified in the following tables:

Provided that an employer may cease to pay contribution in respect of a member if the member, not being a member whose wages exceed three hundred rupees per month, fails to earn a bonus in any coal mine for four successive quarters. If he does not pay

the contribution as aforesaid, the election shall continue to be effective only upto the end of the quarter immediately following the quarter in which he again qualifies for a bonus under paragraph 4 or paragraph 5 of the Coal Mines Bonus Scheme. In the meantime, such a member shall continue as a non-contributory member so long as he does not withdraw from membership under paragraph 63.

TABLE I

Monthly rated employees.

Basic wages for the month	Member's contribution	Employer's contribution	Total monthly contribution
	Rs. A P.	Rs. A P.	Rs. A P.
Upto Rs. 10	0 10 0	0 10 0	1 4 0
Over Rs. 10 and upto Rs. 16	1 0 0	1 0 0	2 0 0
Over Rs. 16 and upto Rs. 24	1 8 0	1 8 0	3 0 0
Over Rs. 24 and upto Rs. 36	2 0 0	2 0 0	4 0 0
Over Rs. 36 and upto Rs. 54	3 0 0	3 0 0	6 0 0
Over Rs. 54 and upto Rs. 72	4 0 0	4 0 0	8 0 0
Over Rs. 72 and upto Rs. 88	5 0 0	5 0 0	10 0 0
Over Rs. 88 and upto Rs. 104	6 0 0	6 0 0	12 0 0
Over Rs. 104 and upto Rs. 120	7 0 0	7 0 0	14 0 0
Over Rs. 120 and upto Rs. 136	8 0 0	8 0 0	16 0 0
Over Rs. 136 and upto Rs. 150	9 0 0	9 0 0	18 0 0
Over Rs. 150 and upto Rs. 175	10 0 0	10 0 0	20 0 0
Over Rs. 175 and upto Rs. 200	12 0 0	12 0 0	24 0 0
Over Rs. 200	15 0 0	15 0 0	30 0 0

TABLE II

Other employees.

Basic wages for the week	Member's contribution	Employer's contribution	Total weekly contribution
	Annas	Annas	Annas
Upto Re. 1	Nil	Nil	Nil
Over Re. 1 and upto Rs. 2	2	2	4
Over Rs. 2 and upto Rs. 3	3	3	6
Over Rs. 3 and upto Rs. 5	4	4	8
Over Rs. 5 and upto Rs. 7	6	6	12
Over Rs. 7 and upto Rs. 9	8	8	16
Over Rs. 9 and upto Rs. 11	10	10	20
Over Rs. 11	12	12	24

(2) If any dispute arises as to whether a particular item of emoluments is a part of basic wages or not, the dispute shall be referred to the Chief Labour Commissioner (Central), whose decision shall be final.

28. *Payment of contributions*—The employer shall, in the first instance, pay both the contribution payable by himself (in this Scheme referred to as the employer's contribution) and also, on behalf of the member employed by him, the contribution payable by the member (in this Scheme referred to as the member's contribution)

29. *Recovery of member's share of contribution.*—(1) The amount of any member's contribution paid by the employer shall, notwithstanding the provisions of this Scheme or any law for the time being in force or any contract to the contrary, be recoverable by means of deduction from the wages of the member and not otherwise

Provided that no such deduction may be made from any wages other than such as are paid in respect of the period or part of the period in respect of which the contribution is payable

(2) Any sum deducted by an employer from wages under this Scheme shall be deemed to have been entrusted to him for the purpose of paying the contribution in respect of which it was deducted

30. *Employer's share not to be recovered from employee*—Notwithstanding any contract to the contrary the employer shall not be entitled to deduct the employer's contribution from the wages of a member or otherwise to recover it from him.

31. *Payment of contributions in respect of initial members*—(1) In respect of all initial members of the Fund employed by an employer in West Bengal and Bihar during the period from the twelfth of May 1947 to the thirtieth of September 1948 and by an employer in Central Provinces and Berar and Orissa during the period from the tenth of January 1948 to the thirtieth of September 1948 the employer shall be required to pay for credit as member's contribution to the Fund the amounts deducted by him under sub-paragraph (3) of paragraph 7 of the Coal Mines Bonus Scheme from the bonus payable, together with an equal amount on account of the employer's contribution and also an administrative charge equal to 5 per cent. of the total amount of the employer's and member's contributions

(2) The payment referred to in sub-paragraph (1) shall be made by deposit in such Government Treasury or branch of the Imperial

Bank of India and under such head of account and at such time as the Central Government may direct. The original treasury or bank chalan shall be sent to the Commissioner with a statement in Form B annexed hereto within one week of the date of the deposit.

NOTE 1—The employer's as well as the member's contribution shall be payable in respect of all initial members irrespective of whether or not the initial member is in the service of the employer at the time when the payment falls due.

NOTE 2—If the total amount of the member's as well as his employer's contribution has been refunded by the employer to any member at the time of his leaving the coal mining industry before the 1st of October, 1948 no contribution shall be payable to the Fund by the employer in respect of such member. In all other cases the employer's as well as the member's contribution shall be payable to the Fund.

NOTE 3—For the sake of removal of doubt, it is hereby stated that no contribution under paragraph 27 or under this paragraph shall be payable in respect of the period from the first of October, 1948 to the thirtyfirst of December, 1948.

32. Lump-sum Contribution.—(1) Every employer shall be required to pay for credit to the "Reserve Account" of the Fund a consolidated contribution in respect of the period from the twelfth of May 1947 in the case of coal mines in West Bengal and Bihar and from the tenth of October 1947 in the case of coal mines in the Central Provinces and Berar and Orissa upto the thirtyfirst of December 1948 at such rate per ton of coal raised in the coal mine during the period concerned as the Central Government may specify in this behalf.

Provided that any sums deposited under paragraph 31 as the employers' contribution and the administrative charge shall be allowed as a deduction from the amount which would otherwise be required to be paid under this paragraph.

(2) The payment referred to in sub-paragraph (1) shall be made by deposit in such Government Treasury or branch of the Imperial Bank of India and under such head of account and at such time, as the Central Government may direct. The original Treasury or Bank chalan shall be sent to the Commissioner, with a statement in such form as he may specify, within one week of the date of the deposit.

33. Mode of payment of contribution—Affixing of stamps.—(1) Every contribution payable under this Scheme shall, except as otherwise provided herein, be paid by affixing a stamp in the space

provided therefor in the Contribution Card maintained for each member in Form D or E annexed hereto

(2) An employer who is liable to pay contributions in respect of any member employed by him, shall pay the contributions in the following manner —

The employer shall before paying the member the wages in respect of any part of the period for which contributions are payable affix to the card of the member a stamp or stamps in payment of the contributions due in respect of that period.

Provided that it shall be the duty of the employer in any case—

- (a) before the termination of the employment, except where the employment is terminated by the member without any notice or intimation to the employer, in which case the employer shall pay contributions within fourteen days of the termination of the employment
- (b) within six days after the expiration of the period of currency of the card.
- (c) if the wages have become due but have not been paid, within fortyeight hours after receiving a request in that behalf from the member,

to affix to the card of the member a stamp or stamps in respect of the period ending at the date of such termination, expiration or request.

(3) In respect of the period during which the Contribution Card of the member has not been received by an employer from the last employer or the Commissioner, the employer shall prepare an emergency card in Form F annexed hereto and shall pay any contribution payable in respect of the member by affixing a stamp or stamps to such a card.

34. *Stamps to be affixed by employer only and stamps which have previously been affixed or are cancelled or defaced not to be affixed.*—No person other than an employer shall affix to the card any stamp relating to this Scheme and no person shall affix to a card any stamp which has been cancelled or defaced or which has been previously affixed to a card to which stamps are required or authorised to be affixed for the purposes of this Scheme.

35. *Cancellation of Stamps.*—Save as otherwise expressly provided in this Scheme, an employer shall immediately after affixing

any contribution stamp to a card cancel the stamp by stamping with a metallic die with black indelible ink across the face of the stamp the date upon which it is affixed and the employer's registered number.

36. Writing on Contribution Cards and Stamps—(1) An employer may, if he thinks fit, inscribe upon the card of any member employed by him, but only in such manner as may easily be erased or removed, the number of that member upon the pay list or in the books of the employer

(2) Save as otherwise expressly provided in this Scheme or as specially authorised by the Central Government, no writing or other mark shall be made at any time upon the card or stamps until after the surrender of the card to the Commissioner.

37. Declarations by employees and preparation of Contribution Cards.—Every person who is required to be a member or an initial member of the Fund shall be asked forthwith by his employer to furnish and shall on such demand furnish to him, for communication to the Commissioner, particulars concerning himself and his nominees in Form A annexed hereto. The particulars shall be entered in his own handwriting or if he is unable to write, shall be ascertained from him by the employer and entered in Form A. The employer shall obtain the signature and/or the thumb impression of the person and sign the certificate on the form at the place provided for the purpose and shall immediately thereafter prepare in respect of the person a Contribution Card in Form D or E as may be appropriate

38. Submission of return of qualified employees.—Every employer shall send by registered post or through a messenger to the Commissioner within six weeks of the commencement of each quarter a return, in duplicate, in Form H annexed hereto of the employees qualifying to become members of the Fund during the preceding quarter and shall send with this return the declarations in Form A furnished by the persons qualifying.

39. Allotment of account numbers and completion of Identity Cards.—On receipt of the return required under paragraph 38 the Commissioner shall promptly allot an Account Number to each person who has qualified to become a member and shall communicate the Account Number to the employer. He shall also arrange to have the persons so qualified photographed as soon as possible and prepare Identity Cards for them in Form G annexed hereto. Two copies

of the photographic prints shall be taken from the same negative and shall be affixed on the Identity Cards and the Declaration Forms. The Identity Cards shall thereafter be sent to the employer, who shall sign and the member shall sign or affix his thumb impression, across the edge of the photograph so as to prevent its subsequent replacement.

40. *Currency of Contribution Cards*—The Contribution Cards issued under this Scheme shall have the period of currency of one year.

Provided that this period of one year may commence and terminate at such different times for coal mines in different areas as may be decided by the Board from time to time.

Provided further that the cards issued in respect of the first contribution period may have a period of currency longer or shorter than the period of one year.

41. *Renewal of Contribution Cards*—Every employer shall, on or before the expiration of the period of currency of the Contribution Card, prepare in respect of each member employed by him, a card in Form D or E as may be appropriate for the next period of currency.

42. *Submission of Contribution Cards to the Commissioner*—Every employer shall, within six weeks from the date of expiration of the period of currency of the Contribution Cards in respect of members employed by him, send the Contribution Cards together with the Emergency Cards, if any, issued in respect of the members to the Commissioner by registered post or through a messenger together with a statement in duplicate in Form I annexed hereto.

43. *Identity Card when handed over to Member*—When a member leaves service in a coal mine, he may demand that the Identity Card be handed over to him and if he does so, the employer shall hand over that card to him after obtaining a receipt therefor on the wage-payment register.

44. *Identity and Contribution Cards of absentee members—Submission to the Commissioner*—In cases where an employee leaves service in a coal mine either without notice to the employer or without demanding his Identity Card, the employer shall keep his Identity Card and the Contribution Card, and in all cases his Contribution Card till the end of the calendar month following that in which the employee left service in the coal mine and then send the cards after making necessary entries therein by registered post or through a

messenger to the Commissioner accompanied by a statement in duplicate in Form J annexed hereto, unless during this period the employee turns up again for service in the coal mine or the employer receives a requisition from another coal mine for the cards of the member. In the latter case the cards should be sent to the other coal mine within 10 days of the receipt of the request after making appropriate entries in the Contribution Card and accompanied by a statement in Form J in duplicate, a copy of this statement being also sent at the same time to the Commissioner.

45. Declaration Form—Procedure to be followed by the employer—When a person presents himself for work at a coal mine the employer shall ask him to state whether or not he is a member of the Fund and if he is, ask for his Identity Card, Account Number and the name and the particulars of the last employer and get his cards from the Commissioner or from the last employer. When the new employer receives the Contribution Cards, Emergency Cards, if any, and Identity Cards, if any, in respect of the members of the Fund who have joined him, from the last employer or the Commissioner, he shall sign and return one copy of the statement in Form J or K annexed hereto in token of receipt to the last employer or the Commissioner as the case may be.

46. Supply of Cards and Forms to employers.—The Commissioner shall supply to employers free of charge on demand Declaration Forms, Identity Cards, Contribution Cards, Emergency Cards, and other forms referred to in this Scheme:

Provided that if any employer desires to obtain any card or form in excess of what the Commissioner considers to be the requirement of the employer, the Commissioner may, if he thinks fit, supply such excess cards or forms and make such charge therefor as he considers necessary.

47. Custody of Identity and Contribution Cards.—The employer shall, subject to paragraph 43, retain the Identity and Contribution Cards in respect of each member in his custody and shall take every possible precaution to guard them against loss or damage.

48. Inspection of Cards by members.—Any member who makes a request in this behalf to the employer shall be permitted to inspect his cards within a period of 72 hours of making such request provided that no member may make such a request more than once in any calendar month.

49. Production of Cards for inspection by the Commissioner or Inspector—(1) Every employer shall, whenever the Commissioner or any other officer authorised by him in this behalf or an Inspector so requests, either in person or by notice, produce to the Commissioner, Officer or Inspector the cards of any member employed by him and any card then in his possession, and if so required by the Commissioner, Officer or Inspector shall deliver such card to the Commissioner, Officer or Inspector, who may, if he thinks fit, retain the card

(2) The Commissioner, Officer or Inspector shall grant a receipt for every card retained by him.

50. Procedure for the purchase of Contribution Stamps by employers—rate of Administrative Charge—The contribution stamps to be affixed to the Contribution Cards of the members under this scheme shall be obtained by the employer from one of the Government Treasuries specified in Schedule 'A' on indent in Form 'N' annexed hereto and the nominal value of the stamps indented for, together with an administrative charge of 5 per cent of the nominal value of the stamps shall be paid into the treasury under the head of account to be specified by the Central Government in this behalf.

Provided that the rate of administrative charge shall be reviewed by the Central Government, in consultation with the Board, before the expiry of three years from the date of publication of this Scheme.

51. Stamps Suspense Account and Administration Account.—Out of the total amount realized under paragraph 50 an amount equal to the nominal value of the stamps sold shall be credited to an account to be named as the "Stamps Suspense Account" and the amount realized as the administrative charge shall be credited to an account to be called the "Administration Account".

52. Provident Fund Account.—When the Contribution Cards of members are received after the expiration of their period of currency from the employers the aggregate amount for which stamps have been affixed on the Contribution Cards shall be credited to an account to be called the "Provident Fund Account" by contra debit to the "Stamps Suspense Account".

53. Interest Suspense Account.—All interests, rents etc. realised and net profits or losses, if any, from the sale of investments, not including therein the transactions of the Administration Account, shall be credited, or as the case may be debited, to an account called

the "Interest Suspense Account". Brokerage and commission on the purchase and sale of securities and other investments shall be included in the purchase or sale price, as the case may be, and not separately charged to the "Interest Suspense Account".

54. *Investment of monies belonging to the Coal Mines Provident Fund*—(1) All monies belonging to the Coal Mines Provident Fund shall be either deposited in the Imperial Bank of India or in such other scheduled banks as may be approved by the Central Government from time to time, or invested in securities mentioned or referred to in clauses (a) to (d) of section 20 of the Indian Trusts Act, 1882 (II of 1882), subject to the condition that the securities in which investments are made are payable both in respect of capital and of interest in the Dominion of India.

(2) The Board shall prepare a classified summary of the Assets of the Fund as on the 31st March in each year or on such other date as the Central Government may specify in Form O annexed hereto, and shall append it to the annual report required to be submitted to the Central Government under paragraph 68.

55. *Disposal of the Coal Mines Provident Fund*—Subject to the provisions of the Act and of this Scheme, the Coal Mines Provident Fund, not including therein the Administration Account, shall not, except with the previous sanction of the Central Government, be expended for any purpose other than the payment of the sums standing to the credit of individual members of the Fund or to their nominees or heirs or legal representatives in accordance with the provisions of this Scheme.

56. *Expenses of administration*—(1) Subject to the provisions of the Act and of the Scheme all expenses of administration of the Coal Mines Provident Fund, including the fees and allowances of the trustees and of the members of the Committee and salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contribution to Provident Fund or other benefit funds for the officers and servants of the Fund, the cost of audit of the accounts, legal expenses and the cost of all stationery and forms required for the purpose of giving effect to this Scheme, shall be met from the Administration Account.

(2) All expenses incurred by the Central Government for and in connection with the establishment of the Fund, whether before or after the date of its establishment, shall be treated as a loan advanced

by the Central Government to the Fund and such loan shall be repaid to the Central Government from the Administration Account

57. Budget—(1) The Committee shall place before the Board at a meeting to be held in January each year a budget showing separately the probable receipts from the sale of stamps and the levy of the administrative charge and the expenditure which it proposes to incur during the financial year commencing on the first of April next. The budget as approved by the Board shall be submitted for sanction to the Central Government before the 15th of February each year.

(2) The Central Government may sanction the budget as submitted or with such alterations therein as it considers desirable

58. Form of Accounts—The Board shall maintain the accounts of the Fund, including the "Administration Account", in such form and manner as may be specified by it with the previous approval of the Central Government

59. Audit—(1) The accounts of the Fund, including the "Administration Account", shall be audited in such manner as the Central Government may direct.

(2) The cost of the audit as determined by the Central Government shall be paid out of the "Administration Account"

60. Members' Accounts.—(1) An account shall be opened in the name of each member in which shall be credited—

- (i) his contributions,
- (ii) the contributions made by his employer, and
- (iii) interest, as provided by paragraph 61.

(2) All items of account shall be calculated to the nearest anna.

(3) On receipt of the Contribution and Emergency Cards, if any, of a member from his employer at the end of the period of currency of the Contribution Card, the Commissioner shall ascertain the nominal value of the contribution stamps affixed on the card or cards of the member and shall credit to the account of the member, as at the last day of the period of currency, the employer's contribution and the member's contribution included in such nominal amount

61. Interest.—(1) The Commissioner shall credit to the account of each member interest at such rate as may be determined by the Central Government in consultation with the Board in respect of the periods of currency of the cards expiring in each financial year

(2) Interest for the period of currency of the card shall be credited with effect from the last day of the period on the opening balance at the credit of the member on the first day thereof

Provided that, when the amount standing at the credit of the member has become payable, interest shall thereupon be credited under this sub-paragraph only for the period from the beginning of the current period upto the end of the month preceding the date of tender of payment, or upto the end of the sixth month after the month in which the amount has become payable, whichever is earlier.

(3) The aggregate amount of interest credited to the accounts of the members shall be debited to "Interest Suspense Account"

62. Nomination—(1) Each member, or if he is a minor his guardian, shall make in his declaration in Form A, a nomination conferring the right to receive the amount that may stand to his credit in the Fund in the event of his death before the amount standing to his credit has become payable, or where the amount has become payable, before payment has been made.

(2) A member, or if he is a minor his guardian, may in his nomination distribute the amount that may stand to his credit in the Fund amongst his nominees at his own discretion

(3) If a member has a family at the time of making a nomination, the nomination shall be in favour of one or more persons belonging to his family. Any nomination made by such member in favour of a person not belonging to his family shall be invalid

(4) If at the time of making a nomination the member has no family the nomination may be in favour of any person or persons but if the member subsequently acquires a family, such nomination shall forthwith be deemed to be invalid and the member shall make a fresh nomination in favour of one or more persons belonging to his family.

(5) A nomination made under sub-paragraph (1) may at any time be modified by a member, or if he is a minor by his guardian, after giving a written notice of his intention of doing so in Form M annexed hereto. If the nominee predeceases the member, the interest of the nominee shall revert to the member who may make a fresh nomination in respect of such interest.

(6) A nomination or its modification shall take effect to the extent that it is valid on the date on which it is received by the Commissioner.

63. *Circumstances in which accumulations in the Fund are payable to a member*—(1) A member may withdraw the full amount standing to his credit in the Fund—

(a) on permanent retirement from service in the coal mining industry at any time after the attainment of the age of 50 years

Provided that if at the time of withdrawal he has not completed 5 years as a member of the Fund the employer's contribution and interest thereon shall be forfeited to the Fund, or

(b) on retirement on account of permanent and total incapacity for work in the coalfields due to bodily or mental infirmity

(2) The Board may permit a member, who has not attained the age of 50 years, to withdraw the amount standing to his credit in the Fund if—

(a) he has migrated from India for permanent settlement abroad, or

(b) he has not been employed in any coal mine to which this Scheme applies for a continuous period of not less than one year immediately preceding the date on which he makes an application for withdrawal, or

(c) in the case of a member employed on fixed term contract, he does not continue to work in the coalfields after the expiry of his contract.

Provided, however, that before the withdrawal is allowed (i) the full amount of the employer's contribution and interest thereon shall be forfeited to the Fund if the period of membership is less than 10 years, or (ii) half the amount of the employer's contribution and interest thereon shall be forfeited to the Fund if the period of membership is 10 years or more but less than 25 years

(3) A member who withdraws under sub-paragraph (2) shall be required to join as a new member of the Fund if he obtains employment again in a coal mine and qualifies again for the membership of the Fund.

(4) All sums forfeited to the Fund under sub-paragraphs (1) and (2) shall be credited to the "Reserve Account" of the Fund.

64. *Accumulations of a deceased member—to whom payable*—
On the death of a member before the amount standing to his credit

has become payable, or where the amount has become payable, before payment has been made—

- (i) if a nomination made by the member in accordance with paragraph 62 subsists, the amount standing to his credit in the Fund or that part thereof to which the nomination relates, shall become payable to his nominee or nominees in accordance with such nomination ;
- (ii) if no nomination subsists or if the nomination relates only to a part of the amount standing to his credit in the Fund, the whole amount or the part thereof to which the nomination does not relate as the case may be shall become payable to the members of his family in equal shares

Provided that no share shall be payable to—

- (a) sons who have attained majority ;
- (b) sons of a deceased son who have attained majority ,
- (c) married daughters whose husbands are alive ;
- (d) married daughters of a deceased son whose husbands are alive ;

if there is any member of the family other than those specified in clauses (a), (b), (c) and (d) .

Provided further that the widow or widows, and the child or children of a deceased son shall receive between them in equal parts only the share which that son would have received if he had survived the member and had not attained the age of majority at the time of the member's death.

NOTE.—For the purpose of this paragraph a member's posthumous child, if born alive, shall be treated in the same way as a surviving child born before the member's death

65. Deductions from the account of members dismissed for serious and wilful misconduct.—(1) If a member is dismissed by an employer in a coal mine for serious and wilful misconduct, the employer may send intimation thereof to the Commissioner, and the Commissioner shall have the power to forfeit the employer's contribution upto a maximum of the employer's contribution in the last two complete periods of currency of the Contribution Cards and those of the period of currency of the current Contribution Card.

(2) Before exercising the power of forfeiture conferred on him by sub-paragraph (1), the Commissioner shall call upon the member concerned, by notice in writing, to show cause why the forfeiture should not be made and shall decide the amount of forfeiture after taking into account any representation made by the member.

(3) Each forfeiture made under sub-paragraph (1) shall be brought to the notice of the Committee at a meeting to be held within 3 months of the date of such forfeiture and may be reviewed by the Committee either at its own instance or at the request of the employer or the member.

(4) Any amount forfeited from the individual account of a member under sub-paragraph (1) shall not be returned to the employer but shall be credited to the "Reserve Account" of the Fund.

66. *Payment of Provident Fund*—(1) When the amount standing to the credit of a member, or the balance thereof after any deduction under paragraphs 63 or 65 becomes payable, it shall be the duty of the Commissioner to make prompt payment as provided in this Scheme. He shall close the account of the member and give notice in writing to the person to whom the amount is payable, specifying the amount and tendering payment thereof

(2) If any portion of the amount, which has become payable, is in doubt or dispute, the Commissioner shall make prompt payment of that portion of the amount in regard to which there is no dispute or doubt, the balance being adjusted as soon after as may be

(3) If the person to whom any amount is to be paid under this Scheme is a minor or lunatic for whose estate a guardian under the Guardians and Wards Act, 1890 (VIII of 1890), or a manager under the Indian Lunacy Act, 1912 (IV of 1912), as the case may be, has been appointed, the payment shall be made to such guardian or manager, and if no such guardian or manager has been appointed, the payment shall be made to the person authorised by law to receive payment on behalf of the minor or lunatic.

(4) If it is brought to the notice of the Commissioner that a posthumous child is to be born to the deceased member, he shall retain the amount which will be due to the child in the event of its being born alive, and distribute the balance. If subsequently no child is born or the child is still-born, the amount retained shall be distributed in accordance with the provisions of paragraph 64

(5) Any person who desires to claim payment under this paragraph shall send a written application to the Commissioner, who may, at the option of the person to whom payment is to be made, make the payment—

- (i) by postal money order at the cost of the payee, or
- (ii) by crossed cheque sent through post, or
- (iii) by crossed cheque or cash at the office of the Commissioner, or
- (iv) by deposit in the payee's postal savings bank account, if any

67. *Annual statement of Members' Account*—(1) As soon as possible after the close of each period of currency of the Contribution Card the Commissioner shall send to each member through the employer of the coal mine in which he was last employed a statement of his account in the Fund showing the opening balance at the beginning of the period, the total amount credited or debited in the period, the total amount of interest credited at the end of the period and the closing balance at the end of the period

(2) Members should satisfy themselves as to the correctness of the annual statement and any error should be brought to the notice of the Commissioner within six months of the receipt of the statement.

68. *Annual Report on the working of the Scheme*.—The Board shall submit to the Central Government an annual report on the working of the Coal Mines Provident Fund Scheme.

69. *Issue of duplicate Identity Cards and copies of Member's Accounts, Annual Report etc.* The Commissioner shall issue duplicate Identity Cards and furnish copies of the member's account and of the annual report of the Fund to any member on written application on payment of such fees and subject to such conditions as may be specified by the Board in this behalf.

70. *Punishment for failure to pay contributions etc.*—If any person—

- (a) fails to pay any contribution which he is liable to pay under this Scheme, or

- (b) deducts or attempts to deduct from the wages or other remuneration of a member the whole or any part of the employer's contribution, or
- (c) removes a stamp from a Contribution Card or uses or attempts to use a stamp which has already been cancelled or defaced or which had previously been affixed to a Contribution Card, or
- (d) fails or refuses to submit any return, statement or other document required by this Scheme or submits a false return, statement or other document, or
- (e) obstructs any Inspector or other official appointed under the Act or this Scheme in the discharge of his duties, or
- (f) is guilty of any contravention of or non-compliance with any of the requirements of the Act or of this Scheme in respect of which no special penalty is provided,

he shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both

SCHEDULE A

List of Treasuries at which Coal Mines Provident Fund Contribution Stamps are stocked for issue to registered Coal Mines

West Bengal

Asansol

Calcutta

Bihar

Manbhum

Dhanbad

Hazaribagh

Central Provinces and Berar

Baikunthpur

Bilaspur

Chanda

Chhindwara

Orissa

Sambalpur.

Talcher

Form A

COAL MINES PROVIDENT FUND

(Declaration by person employed in a Coal Mine)

1 Name (in block capitals)

2 Sex

Caste or Surname

4 Religion

5 Occupation

6 Height

7 Father's Name

8 Husband's Name (for married women)

9 Marital Status (whether bachelor, spinster, married, widow or widower)

10. Date of birth Day Month Year

11. Marks of Identification

12 Permanent Address

Village Thana

District Province or State

Space for photograph.

I declare that I have/my ward has not previously been a member of the Coal Mines Provident Fund and I hereby direct that the amount at my/my ward's credit in the Coal Mines Provident Fund at the time of my/my ward's death shall be paid to the following person(s) in the manner shown against their names.—

Name and address of the nominee or nominees	Nominee's relationship with the member.	Age of nominee	Amount or share of accumulation in the Fund to be paid to the nominee

Signature or left hand thumb impression of the person employed or his guardian

Date

Certified that above declaration has been signed by/by the guardian of
 employed in my coal mine before me after
 he has read the entries.
 the entries have been read over to him by me

Regd. No. of Coal Mine.

Signature of Manager }
 or other Officer }

Dated

Designation }
 Name and address of Coal Mine. }

Form C**COAL MINES PROVIDENT FUND**

(Election under paragraph 26 of the Coal Mines
Provident Fund Scheme)

1. Name
(in block capitals)
2. Sex..... .. 3. Religion.. ..
4. Father's Name... ..
5. Husband's Name
(for married women only)
6. Date of birth.
7. Permanent Address.... ..
8. Name of Provident Fund of which he is already a member . ..

I declare that all the particulars stated above are true to the best of my knowledge and belief and I hereby* elect/do not elect to continue to be a member of the aforesaid Provident Fund.

Signature or left hand thumb
impression of person employed.

Certified that the above declaration has been signed by.....
employed in†.....
before me and that he is a member of.....
....Provident Fund, a fund[†] recognised under the Income Tax Act, 1922.
[†]to which the Provident Funds Act, 1925, applies.

Signature of Manager or }
other Officer of Coal Mine }
Registered No. of Coal Mine.....

* Score out the portion not applicable.

† Here give the name of Coal Mine in which employed.

Form D

COAL MINES PROVIDENT FUND

Contribution Card for employees other than monthly rated
employees for the period from.....to.

1. Account No.....
2. Name (in block capitals).....
3. Caste or Surname.....
4. Sex.....
5. Date of birth.....
6. Occupation.....
7. Father's name.....
8. Husband's name (for married women only)....
9. Marital Status.....
10. Permanent Address—
 Village..... Thana.....
 District..... Province or State.....
11. Signature or left hand thumb
impression of member.
12. Signature of person preparing the Card.....
13. Signature of Manager of Coal Mine.....
14. Registered No. of Coal Mine.....
15. Name and address of Coal Mine.....

Week 30	Week 31	Week 32	Week 33	Week 34	Week 35
Week 36	Week 37	Week 38	Week 39	Week 40	Week 41
Week 42	Week 43	Week 44	Stamps must not be bought except at a Govt. Treasury		
Week 47	Week 48	Week 49	Week 50	Week 51	Week 52
SUMMARY OF STAMPS AFFIXED					
Number	Denomination of stamps affixed	Nominal value of stamps affixed		Signature of employer's clerk	
	Rs	Rs	As	Checked and found correct	
				Signature of the clerk in the office of the Commissioner.	
Total		Nominal value of stamps			

FOLD CARD HERE DO NOT TEAR

WARNING Any person who removes a stamp from this card or makes use of a stamp removed from a card is liable to prosecution					
Week 4	Week 5	Week 6	Week 7	Week 8	Week 9
Week 10	Week 11	Week 12	Week 13	Week 14	Week 15
Week 16	Week 17	Week 18	Week 19	Week 20	Week 21
NOTICE TO EMPLOYER Each stamp should be firmly affixed and the date of affixing and employer's registered No. at once stamped with metallic die across the face of stamp.					
Week 22	Week 23	Week 24	Week 25	Week 26	Week 27
Week 28	Week 29	Week 30	Week 31	Week 32	Week 33

Account No

Particulars of Emergency Cards issued				
Serial No.	Registered No. of Coal Mine issuing the Emergency Card	Period for which Emergency Card issued		Remarks
		From	To	

Particulars of employment				
Registered No. of Coal Mine	Duration of employment		Remarks	Initials of employer's clerk
	From	To		

Form E

COAL MINES PROVIDENT FUND

Contribution Card for monthly rated employees for the period from to

1. Account No
2. Name (in block capitals)
3. Cast or Surname
4. Sex
5. Date of birth
6. Occupation
7. Father's name
8. Husband's name
(for married women only)
9. Marital status.....
10. Permanent Address
Village..... Thana
District..... Province or State.....
11. Signature or left thumb
impression of Member.....

FOLD CARD HERE DO NOT TEAR

- Account No.....
12. Signature of person
preparing the card.
 13. Signature of Manager
of Coal mine.....
 14. Registered No. of Coal-Mine.....
 15. Name and address of Coal-Mine

Particulars of employment				
Registered No. of Coal mine	Period of employment		Remarks	Initials of employer's clerk
	From	To		

<p style="text-align: center;">WARNING</p> <p>Any person who removes a stamp from this card or makes use of a stamp removed from a card is liable to prosecution</p>			Month 1
Month 2	Month 3	Month 4	Month 5
Month 6	Month 7	Stamps must not be bought except at a Govern- ment treasury	Month 8
Month 9	Month 10	Month 11	Month 12

FOLD CARD HERE DO NOT TEAR

NOTICE TO EMPLOYER

Each stamp should be firmly affixed and the date of affixing and employer's registered No at once stamped with metallic die across the face of stamp.

Summary of stamps affixed

Number of stamps	Denomination of stamps		Nominal value of stamps		Signature of employer's clerk _____ Checked and found correct Clerk of the Office of the Commissioner.
	Rs.	As	Rs.	As.	
Total nominal value of stamps affixed.					

Particulars of Emergency Cards issued

Employer's Registered No.	Period for which issued		Remarks
	From	To	

Form F**COAL MINES PROVIDENT FUND****Emergency Contribution Card for the period**

from..... .. to

1. Account No..... ..
2. Name (in block capitals)
3. Caste or surname... ..
4. Sex
5. Occupation... ..
6. Father's name..... ..
7. Husband's name (for married women only).... ..
8. Marital status
9. Permanent address
- Village..... .. Thana.
- District.. .. Province or State.. ..
10. Signature or left thumb
impression of member..... ..
11. Signature of person
preparing the card..... ..
12. Signature of Manager of Coal Mine..... ..
13. Registered No of Coal Mine..... ..
14. Name and address of Coal Mine
15. Space for Stamps—

16. Total nominal value
of stamps affixed..... ..
17. Signature of employer's clerk..... ..
18. Checked and found correct..... ..

Clerk of the Office of the Commissioner.

Form G

COAL MINES PROVIDENT FUND

Identity Card

Account No

NAME... ..
(in block capitals)

1. Account No.....

2. Name.....
(in block capitals)

3 Surname or Caste... ..

4. Sex

5. Height ..

6. Occupation.....

7. Religion..

8. Father's Name.....

9. Husband's Name.....
(for married women)

10. Marital Status....

11. Date of birth. ..

12. Permanent Address.....

Left thumb impression

Marks of identification

Space for Photograph

Account No.....

Card prepared by

Dated.....

Coal Mines Provident Fund
Commissioner.

Form H**COAL MINES PROVIDENT FUND**

Return of persons employed who qualified for membership of the Coal Mines Provident Fund during the quarter..... ..

..... to

(To be sent to the Commissioner in duplicate with Form A.)

Name & Address of Coal Mine..... ..

Regd. No. of Coal Mine.

Serial No	Name of employee (In block capitals)	Father's name (or Husband's name in case of married women.)	Category of employee's work.	Sex	Account No (not to be filled by employee)	REMARKS

Dated

Signature of Manager
of Coal Mine.

Form I**COAL MINES PROVIDENT FUND**

Return of Contribution Cards sent to the Commissioner on completion of contribution year

19 to.....19 .

(To be sent in duplicate)

Name and Address of Coal Mine..... ..

Registered No. of Coal Mine.

Serial No.	Account No.	Name of member (In block capitals).	Number of Emergency Cards sent	Total contribution		Remarks	Space for use in Commissioner's office.
				Rs.	As.		
Total Amount of Contributions.							

Total number of Cards sent

Dated.....

Signature of Manager
of Coal Mine.

Form J**COAL MINES PROVIDENT FUND**

Chalan of Contribution Cards and Identity Cards sent to

Instructions:—This form should be prepared in triplicate or duplicate according as the cards are sent to the new employer or the Commissioner. In case the cards are sent to the new employer the extra copy should be sent to the Commissioner. One copy will be returned by the receipt duly acknowledged.

Sl No	Account No.	Name of member (in block Capitals)	Identity card sent (S) not sent (N)	Contribution card sent (S) not sent (N)	Emergency cards (Number sent) Nil 1, 2, 3, etc. 6	REMARKS
1	2	3	4	5	6	7

No. of Identity Cards

No. of Contribution Cards

No. of Emergency Cards

Total No. of Cards sent

Signature of Manager
Name and address of the
Coal mine
Regd. No of Coal mine .
Dated

Form K**COAL MINES PROVIDENT FUND**

Chalan of Contribution Cards and Identity Cards sent to

Instructions:—This form should be sent in duplicate. The receipt will return one copy, duly acknowledged.

Sl. No.	Account No.	Name of member (In block Capitals)	Identity cards sent(S) not sent (N)	Contribution card sent (S) not sent (N)	Emergency cards (Number sent) Nil 1, 2, 3, etc.	REMARKS

No. of Identity Cards

No. of Contribution Cards

No. of Emergency Cards

Total No. of Cards sent

Coal Mines Provident Fund
Commissioner
Dated

Form H**COAL MINES PROVIDENT FUND**

Return of persons employed who qualified for membership of the Coal Mines Provident Fund during the quarter.....
 to

(To be sent to the Commissioner in duplicate with Form A)

Name & Address of Coal Mine

Regd. No. of Coal Mine.

Serial No.	Name of employee (In block capitals)	Father's name (or Husband's name in case of married women.)	Category of employee's work	Sex	Account No (not to be filled by employer)	REMARKS

Dated

Signature of Manager
of Coal Mine.

Form I**COAL MINES PROVIDENT FUND**

Return of Contribution Cards sent to the Commissioner on completion of contribution year.....
 19 to.....19

(To be sent in duplicate)

Name and Address of Coal Mine

Registered No. of Coal Mine.....

Serial No.	Account No.	Name of member (In block capitals).	Number of Emergency Cards sent	Total contribution		Remarks	Space for use in Commissioner's office.
				Rs	As		
Total Amount of Contributions.							

Total number of Cards sent

Dated.....

Signature of Manager
of Coal Mine.

Form J**COAL MINES PROVIDENT FUND**

Chalan of Contribution Cards and Identity Cards sent to

Instructions:—This form should be prepared in triplicate or duplicate according as the cards are sent to the new employer or the Commissioner. In case the cards are sent to the new employer the extra copy should be sent to the Commissioner. One copy will be returned by the recipient duly acknowledged.

Sl. No.	Account No.	Name of member (in block Capitals)	Identity card sent (S) not sent (N)	Contribution card sent (S) not sent (N)	Emergency cards (Number sent) Nil 1, 2, 3, etc.	REMARKS
1	2	3	4	5	6	7

No. of Identity Cards

No. of Contribution Cards

No. of Emergency Cards.....

Total No. of Cards sent

Signature of Manager
Name and address of the
Coal mine.....
Regd. No. of Coal mine .
Dated .. .

Form K**COAL MINES PROVIDENT FUND**

Chalan of Contribution Cards and Identity Cards sent to. . . .

Instructions:—This form should be sent in duplicate. The recipient will return one copy, duly acknowledged.

Sl. No.	Account No.	Name of member (In block Capitals)	Identity cards sent(S) not sent (N)	Contribution card sent (S) not sent (N)	Emergency cards (Number sent) Nil 1, 2, 3, etc.	REMARKS

No. of Identity Cards.....

No. of Contribution Cards.....

No. of Emergency Cards.....

Total No. of Cards sent.....

Coal Mines Provident Fund
Commissioner
Dated

Form L**COAL MINES PROVIDENT FUND**

(Requisition for Contribution Cards and Identity Cards)

The following persons, who have joined this Coal mine, are understood to be members of the Coal Mines President Fund and to have been working in your Coal mine during . . . or It is not to have worked in any coal mine requested that their Contribution Cards, Emergency Contribution Cards, if any, and the Identity Cards (in the case of those who have not already surrendered them as mentioned below) may kindly be sent to us :—

Serial No.	Member's name (in block capitals)	Father's name (or Husband's name in case of married women)	Account Number (as in the Identity Card or as stated by the member)	Probable date of leaving the coal mine	Whether Identity-Card surrendered (write 'yes' or 'no')

Regd. No. of Coal Mine

Signature of Manager or
other Officer.

Dated

Name and address of
Coal Mine.

To

.....

Form M**COAL MINES PROVIDENT FUND**

I hereby cancel the nomination made by me/my guardian on as regards the disposal, in the event of my/my ward's death, of the amount standing to my/my ward's credit in the Coal Mines Provident Fund and direct that the amount at my/my ward's credit in Account No of the Coal Mines Provident Fund at the time of my/my ward's death shall be paid to the following person (s) in the manner shown against their names :—

Name & Address of the nominee or nominees	Nominee's relationship with the member	Age of Nominee.	Amount or share of accumulation in the Fund to be paid to the nominee
1	2	3	4

Date.....

Signature or left hand
thumb impression of member
or his guardian.

Certified that the above declaration has been signed by
(1)..... employed in..... (2) the
guardian of..... employed in.....
before me.

Registered No. }
of Coal Mine }

Signature of Manager.

Form N

COAL MINES PROVIDENT FUND

(Indent for Purchase of Contribution Stamps)

To

The Treasury Officer,

.....

Please supply for the use of the under-mentioned Coal Mine the following Contribution Stamps for which the bearer will pay Cash/by
Cheque No.....dated..... drawn on

Denomination of the Stamp	Number of stamps required	Nominal value of stamps	
<i>Monthly rated employees.</i>		Rs.	As.
One Rupee and four annas	..		
Two Rupees	..		
Three		
Four		
Six		
Eight		
Ten		
Twelve		
Fourteen		
Sixteen		
Eighteen		
Twenty		
Twenty-four		
Thirty		
<i>Other employees.</i>			
Four Annas		
Six		
Eight		
Twelve		
One Rupee		
One Rupee and Four Annas		
One Rupee and Eight Annas		
Total Nominal value of stamps			
Add 5% Administrative charge			
Total amount payable for the purchase of stamps			

Signature of Manager of Coal Mine.....

Regd. No. of Coal Mine.....

Name and address of Coal Mine.....

Form O**COAL MINES PROVIDENT FUND**

Classified Summary of the assets of the Coal Mines Provident Fund the.....

Class of Assets	Book value as per (a) below	Market value as per (b) below	Remarks as per (c) below
	Rs.	Rs.	Rs.
1. Govt of India Securities .. .			
2. Indian Provincial Govt. Securities .			
3. Indian Municipal, Port and Improve- ment Trust Securities including debentures			
4. Debentures of Indian Railways .			
5. Guaranteed and Preference shares of Indian Railways .. .			
6. Annuities of Indian Railways ...			
7. Ordinary shares of Railways in India ..			
8. Other debentures of concerns in India			
9. Other guaranteed and Preference shares of concerns in India .. .			
10. Other Ordinary shares of Concerns in India			
11. Cash on deposit in Banks			
12. Cash in hand and on Current account in Banks .. .			
13. Other asset (to be specified)			

The summary shall show—

(a) the value for which credit is taken in the accounts for each of the above-mentioned classes of assets,

(b) the market value of such of the above-mentioned classes of assets as has been ascertained from published quotations,

(c) how the value of such of the above-mentioned classes of assets as has not been ascertained from published quotations has been arrived at.

RAILWAY LABOUR LEGISLATION

Transport Legislation.

There is no comprehensive legislation regulating the conditions of work in transport services, *viz*, railways, road transport, docks, trams and buses, mercantile marine and inland water transport. Some degree of protection is afforded by amendments to the existing Acts governing conditions of employment. There is no body of law which may be properly called transport legislation.

Railway Labour Legislation.

The most important transport legislation in India relates to the railways which come as the third largest group of employers of industrial labour. Until 1930, there was no statutory regulation of the conditions of work of railway servants except those employed in railway workshops covered by the Factories Act. The International Labour Conventions—Hours of Work (Industry) 1921¹ and Weekly Rest (Industry) 1922¹ were ratified by the Government of India and given effect to in the Indian Railways (Amendment) Act 1930 (XIV of 1930),² adding a new chapter (Chapter VI—A) to the Indian Railways Act, 1890, dealing with the hours of work and periods of rest of railway employees.

Main Provisions.

The most important provisions of the amending Act are as follows :—(1) the hours of work of railway employees shall not exceed 60 hours a week on the average in any month in respect of all staff coming under the Act except those whose work is essentially intermittent and the hour of work in the latter case is limited to 84 a week, (2) a compulsory weekly holiday is provided for railway employees whose work is not intermittent, (3) temporary exemption may be made in case of accidents, emergency, urgent work and exceptional pressure of work and the hours worked in excess of the statutory maximum are to be paid at the rate of 1½ times the ordinary rate of pay. The Government of India has been granted powers to

¹ International Labour Code, 1939 (Montreal, 1941).

² Gazette of India, Part V, dated 7th September, 1929.

prescribe the railway servants to whom these provisions apply and the authorities who can declare any employment as essentially intermittent and to grant exemptions and also to appoint persons to be Supervisors of railway labour. The administration of the law vests with the Government of India

Railway Servants Hours of Employment Rules, 1931.

These Rules were framed by the Central Government under section 71E of the Act. The Rules provide for limitation of the hours of work and grant of periodical periods of rest to certain classes of railway servants excluding those who are engaged on the running staff or watch and ward duty or in a confidential capacity as supervisor or manager and persons covered under Factories and Mines Acts

Thus the railway labour is guided in some portions by the Factories Act, 1948, in the other by the Indian Mines Act, 1923 and again in another by the Railway Servants Hours of Employment Rules, 1931.

Five-year Programme and Rajadhyaksha Award.

There is virtually no law regulating the conditions of work in transport services. Under the Five-year Labour Plan, the Government of India proposes to enact legislation for securing the workers employed in road transport, tramways, motor vehicles etc., regulated conditions of work, rest periods and holiday with pay. Mr Justice Rajadhyaksha who was appointed as an Adjudicator in April 1946 in respect of certain demands of the railway workers, submitted his Award in May 1947. The Government accepted his award regarding hours of work, periodic rest and leave reserves and his other recommendations are still under consideration.

INDIAN RAILWAYS ACT, 1890 (IX OF 1890)

Arrangement of Sections

CHAPTER VI-A

LIMITATION OF EMPLOYMENT OF RAILWAY SERVANTS.

- 71-A. Definitions.
- 71-B. Application of Chapter VI-A.
- 71-C. Limitation of hours of work.
- 71-D. Grant of periodical rest.

- 71-E Power to make rules.
- 71-F Railway servants to remain on duty.
- 71-G Supervisors of Railway Labour.
- 71-H. Penalty.

INDIAN RAILWAYS ACT, 1890 (XIV OF 1930)¹

CHAPTER VI-A

LIMITATION OF EMPLOYMENT OF RAILWAY SERVANTS.

71-A. Definitions.—In this Chapter, unless there is anything repugnant in the subject or context,—

- (a) the employment of a railway servant is said to be ‘essentially intermittent’ when it has been declared to be so by the authority empowered in this behalf, on the ground that it involves long periods of inaction ; during which the railway servant is on duty but is not called upon to display either physical activity or sustained attention ; and
- (b) except in section 71-B, a ‘railway servant’ means a railway servant to whom this Chapter applies.

71-B. Application of Chapter VI-A.—This Chapter applies only to such railway servants or classes of railway servants as the [Central Government]² may, by rules made under section 71-E, prescribe.

71-C. Limitation of hours of work.—(1) A railway servant, other than a railway servant whose employment is essentially intermittent, shall not be employed for more than sixty hours a week on the average in any month.

(2) A railway servant, whose employment is essentially intermittent, shall not be employed for more than eighty-four hours in any week.

¹ Chapter VI-A was inserted by Indian Railways (Amendment) Act, 1930 (XIV of 1930). For Statement of Objects and Reasons, see Gazette of India, dated 7th September, 1929, Part V and for Report of the Select Committee, see *ibid.*, dated 15th February, 1930, Part V. This amendment was undertaken by the Government to give effect to the Washington Hours of Work Convention, 1919.

² These words were substituted for the words “Governor General in Council” by the Government of India (Adaptation of Indian Laws) Order, 1937.

(3) Subject to rules made under section 71-E, temporary exemptions of railway servants from the provisions of sub-section (1) and sub-section (2) may be made—

- (a) when such temporary exemptions are necessary to avoid serious interference with the ordinary working of the railway, in cases of accident actual or threatened, or when urgent work is required to be done to the railway or to the rolling-stock, or in any emergency which could not have been foreseen or prevented, and
- (b) in cases of exceptional pressure of work not falling within the scope of clause (a) ;

Provided that a railway servant exempted under clause (b) shall be paid for overtime at not less than one and a quarter times the ordinary rate of pay.

71-D. Grant of periodical rest.—(1) A railway servant shall be granted, each week commencing on Sunday, a rest of not less than twenty-four consecutive hours

Provided that this sub-section shall not apply to a railway servant whose employment is essentially intermittent, or to a railway servant to whom sub-section (2) applies.

(2) The ¹[Central Government] may, by rules made under section 71-E, specify the railway servants or classes of railway servants to whom periods of rest may be granted on a scale less than that laid down in sub-section (1), and may prescribe the periods of rest to be granted to such railway servants.

(3) Subject to rules made under section 71-E, temporary exemptions from the grant of periods of rest may be made in the cases or circumstances specified in sub-section (3) of section 71-C.

Provided that a railway servant shall, as far as may be possible be granted compensatory periods of rest for the periods he has foregone.

71-E. Power to make rules.—(1) The ¹[Central Government] may make rules—

- (a) prescribing the railway servants or classes of railway servants to whom this Chapter shall apply ;

¹ These words were substituted for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

- (b) prescribing the authorities who may declare that the employment of any railway servant or class of railway servants is essentially intermittent ,
- (c) specifying the railway servants or classes of railway servants to whom sub-section (2) of section 71-D shall apply ;
- (d) prescribing the authorities by whom exemptions under sub-section (3) of section 71-C or sub-section (3) of section 71-D may be made ,
- (e) providing for the delegation of their powers by the authorities prescribed under clause (d) , and
- (f) providing for any other matter which is to be provided for by rules or which the ¹[Central Government] may deem to be requisite for carrying out the purposes of this Chapter

(2) Such rules shall be subject to the provisions of section 143

71-F. Railway servants to remain on duty.—Nothing in this apter or the rules made thereunder shall authorise a railway servant leave his duty where due provision has been made for his relief, til he has been relieved.

71-G. Supervisors of Railway Labour.—(1) The ¹[Central overnment] may appoint persons to be Supervisors of Railway labour.

(2) The duties of Supervisors of Railway Labour shall be

- (a) to inspect railways in order to determine if the provisions of this Chapter and of the rules made thereunder are duly observed, and
- (b) such other duties as the ¹[Central Government] may prescribe.

(3) A Supervisor of Railway Labour shall be deemed to be an inspector for the purposes of sections 5 and 6.

71-H. Penalty.—Any person under whose authority any railway servant is employed in contravention of any of the provisions of this Chapter or of the rules made thereunder shall be punishable with fine which may extend to five hundred rupees.

¹ These words were substituted for the words "Governor General in Council", *ibid*

RAILWAY SERVANTS HOURS OF EMPLOYMENT RULES, 1931¹

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RAILWAY SERVANTS HOURS OF EMPLOYMENT RULES, 1931¹

In exercise of the powers conferred by sub-section (1) of section 71-E of the Indian Railways Act, 1890 (IX of 1890), as amended by the Indian Railways (Amendment) Act, 1930 (XIV of 1930), the Central Government is pleased to make the following rules for the hours of employment and periods of rest of railway servants, namely :—

1. Short Title.—These rules may be called the Railway Servants Hours of Employment Rules, 1931.

2. Definition.—In these rules “Chapter”, “Section” or “Sub-Section” means a Chapter, Section or Sub-Section of the Indian Railways Act, 1890

3. Extent of application of Chapter VI-A—(1) The provisions of Chapter VI-A shall apply to the following classes of railway servants, namely :—

- (1) Operating Staff, (2) Transportation Staff, (3) Commercial Staff, (4) Traffic Staff, (5) Engineering Staff, (6) Mechanical Staff, (7) Shed Staff, (8) Watch and Ward Staff, (9) Staff of the Stores Department or branch, (10) Staff of the Medical Department or branch, (11) Staff of the Accounts Department, (12) Office Staff.

¹ These Rules were published under Notification No 40-L dated 31-1-31

(2) For the purpose of this rule, these classes shall be held to lude—

- (a) Running Staff, *viz.*, drivers, shunters, firemen, guards, brakemen, travelling van porters, travelling van checkers, travelling ticket examiners, travelling stores delivery staff and other staff who habitually work on running trains ;
- (b) Those chowkidars or watchmen, watermen, sweepers, and gate keepers whose employment is declared by the Head of the Railway to be essentially intermittent and of specially light character ;
- (c) Persons who hold position of supervision or management or are employed in a confidential capacity and
- (d) persons employed in a factory within the meaning of the Indian Factories Act, 1911 or employed in a mine within the meaning of the Indian Mines Act, 1923.

(3) If any question arises as to whether a person holds a position of supervision or management, or is employed in a confidential capacity, the matter should be referred to the Railway Board, whose decision thereon shall be final.

4. Power to Head of Railway to declare employment essentially intermittent.—The power of declaring that the employment of a railway servant is essentially intermittent, within the meaning of section -A, shall vest in the Head of a railway.

5. Power to make temporary exemptions.—(1) Power to make temporary exemptions of railway servants from the provisions of sub-section (1) and (2) of section 71-C, of sub-section (1) of section 71-D, and of rule 6 shall vest in the Head of a railway.

(2) The Head of a railway may delegate his powers under this rule to such authorities subordinate to him as he may, by order prescribe.

6. Grant of periods of rest on less than the normal scale.—(1) The following classes of railway servants may be granted periods of rest on a scale less than that laid down in sub-section (1) of section -D, namely :—

- (a) Artizans and unskilled labour employed on lines under construction ;
- (b) Artizans and unskilled labour employed for temporary purposes on open lines ; and

(c) Mates, Keymen and Gangmen employed on the maintenance of permanent way.

(2) Such railway servant shall enjoy in every calendar month at least one period of rest of not less than 48 consecutive hours or two periods of rest of not less than 24 consecutive hours each.

7. *Compensatory periods of rest.*—A railway servant exempted under the provisions of sub-section (3) of section 71-D from the grant of periods of rest shall not be required to work for 21 days without a rest of at least 24 consecutive hours.

8. *Supply of information.*—A railway administration shall furnish for communication to the International Labour Office such information concerning the application of the provisions of Chapter VI-A or of these rules as may be called for by the Railway Board.

9. *Display of hours of employment.*—A railway administration shall make known either by duty lists, rosters, or other documents placed in conspicuous places, the duration of hours of employment and the incidence of periods of rest.

10. *Affixing of rules.*—A railway administration shall keep in a conspicuous place at each station of its railway a copy of Chapter VI-A and of these rules.

DOCK LABOUR LEGISLATION

Indian Dock Labourers Act.

The Government of India decided to ratify the Revised Convention¹ of International Labour Conference regarding protection against accidents in the loading and unloading of ships. The Indian Dock Labourers Act was passed in 1934 (XIX of 1934) with the object of making provisions for the safety of persons engaged in work at the docks from practically every danger to which they may be exposed in their calling or against which the revised Convention requires protection. It contains an extensive code of regulations providing for the safe maintenance of approaches over wharves, docks or quays and means of access to ship lying at wharves or quays used by the workers. It also provides for first aid in cases of accidents, for submission of report on accidents and for testing all lifting

¹ International Labour Code, 1939 (Montreal, 1941)

linery. The Act does not contain specific provision to safeguard the interest of the dock labourers.

Actual enforcement.

Actual enforcement of the Act was, however, held up by certain constitutional changes in 1935 and latter by the outbreak of war. The Act has come into force on the 10th February, 1948,¹ the day on the ratification of the Convention was registered with the International Labour office.

Administration.

The Act and the Regulations framed thereunder, apply to the ports of Bombay, Calcutta, Madras, Vizagapatam and Cochin and are being at present administered by the Chief Adviser, Factories, Government of India

Five-year Labour Programme.

Under the above Programme, the Government of India considered to enact legislation for dock labourers for regulating their conditions of work, rest periods and holidays with pay. Draft Bill regulating the working conditions of workers in dock areas on the lines of U. K. Act of 1946, was undertaken by the Government and passed in 1948. The Scheme under the new Act has not yet been completed.

Dock Labourers Regulations, 1948.

Regulations for implementing the Act and giving effect to the Convention was circulated for eliciting public opinion and have been finalised.

Regulation of working conditions of dock workers.

The Royal Commission on Labour in India in their Report published in 1931 recommended a policy of decasualisation for the purpose of regulating the numbers of dock workers according to actual requirements and not according to the whims and caprice of employers or middlemen. In order to reduce the hardship on account of unemployment or under employment due to excess of dock labour

¹ Ministry of Labour Notifications No. Fac.38(1)A, dated 10th January, 1948, Gazette of India, Part I, dated 17th January, 1948, p. 88.

over actual requirement, the Government of India accepted the recommendation of the Commission. The Labour Investigation Committee also commented on the insecurity of the service of dock workers and recommended a scheme of decasualisation. The Government without formulating any scheme of compulsory registration, were attempting to induce the Port Trust authorities for formulating schemes of decasualisation. The attempt not being successful, the Government decided to make statutory provisions for regulating the employment of labour in docks.

Dock Workers (Regulation of Employment) Act, 1948 (IX of 1948).

The Bill for regulating employment of dock workers was discussed in the Labour Ministers' Conference held in New Delhi on the 16th and 17th April, 1947 and also in the Eighth Labour Conference held on 21st and 22nd April, 1947. The Bill¹ was introduced in the first Session of the Dominion Parliament on the 19th November, 1947 by the Hon'ble Labour Minister and the Bill was referred to the Select Committee on the 21st November, 1947. The Select Committee submitted Report² on the 28th January, 1948 and the Bill was passed in February, 1948. The Act received the assent of the Governor-General on the 4th March, 1948.

Provisions of the New Act.

The Act directs the preparation of schemes by the Central and Provincial Governments for registration of dock labourers with a view to regulate their recruitment and registration for securing greater regularity of employment and to provide for terms and conditions of employment of dock workers, whether registered or not, their hours of work, rates of remuneration and conditions of holidays and pay. The Act prescribes for a minimum pay for registered workers if employment or full employment is not available to them and also for their training and welfare. The Act also provides for constitution of Advisory Committee not exceeding fifteen, including an equal number of members representing the Government, the dock workers and their employers to advise upon any matters referred to

¹ For Statement of Objects and Reasons, see Gazette of India, Part V, dated 22nd November, 1947.

² For Report of the Select Committee, see *ibid*, dated 7th February, 1948.

y the Government regarding administration of the Act or the same. The Government will make rules providing for composition of the Advisory Committee, manner of selection of members and their salaries of office, allowance, if any, and the quorum. The Act provides for appointment of Inspectors on whose report only the Court will take cognizance of an offence.

Dock Workers (Regulation of Employment) Amendment Act, 1949.

The Act was amended in 1949 (XXIX of 1949) with a view to give corporate status to the constituted authority responsible for administration of the scheme made by the Government.

Advisory Committee.

The Dock Workers (Advisory Committee) Rules have been framed on 1st June, 1949 and are applicable to all the major ports in India. The Rules provide for constitution and function of the Advisory Committee consisting of 15 members to be appointed by the Central Government for a term of 3 years—5 each representing Central Government, employers and dock workers.

INDIAN DOCK LABOURERS ACT, 1934 (XIX OF 1934)

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Short title, extent, commencement and application

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Power to Central Government to make regulations.

Power to Central Government to make rules

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Protection to persons acting under this Act.

INDIAN DOCK LABOURERS ACT, 1934 (XIX OF 1934)

An Act to give effect in ¹[the Provinces] to the Convention concerning the protection against accidents of workers employed in loading and unloading ships

Whereas a Revised Draft Convention concerning the protection against accidents of workers employed in loading or unloading ships was adopted at Geneva on the twenty-seventh day of April, nineteen hundred and thirty-two,

And whereas it is expedient to give effect in [the Provinces]¹ to the said Convention ;

It is hereby enacted as follows —

1. Short title, extent, commencement and application.—

(1) This Act may be called the Indian Dock Labourers Act, 1934

(2) It extends to ²[all the Provinces of India].

(3) It shall come into force on such date³ as the ⁴[Central Government] by notification in the ⁵[official Gazette] appoint

(4) It shall not apply to any ship of war of any nationality

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) “the processes” includes all work which is required for or is incidental to the loading or unloading of cargo or fuel into or from a ship and is done on board the ship or alongside it ; and

(b) “worker” means any person employed in the processes

3. Inspectors.—(1) The ⁶[Central Government] may, by notification in the ⁷[official Gazette], appoint such persons as it thinks fit to be Inspectors for the purposes of this Act within such local limits as it may assign to them respectively.

¹ These words were substituted for the words “British India” by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948

² These words were substituted for the words “the whole of British India”, *ibid.*

³ The Act has come into force on 10th February, 1948, *vide* Ministry of Labour Notification No. Fac. 38 (1) A, dated the 10th January, 1948

⁴ These words were substituted for the words “Governor General in Council” by Government of India (Adaptation of Indian Laws) Order, 1937

⁵ These words were substituted for the words “Gazette of India”, *ibid.*

⁶ These words were substituted for the words “Local Government”, *ibid.*

⁷ These words were substituted for the “local official Gazette”, *ibid.*

(2) All Principal Officers of the Mercantile Marine Department shall be Inspectors under this Act, *ex officio*, within the limits of their charges.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code, and shall be officially subordinate to such authority as ¹[Central Government] may direct

4. Powers of Inspectors.—Subject to any rules made in this behalf under section 6, an Inspector may, within the local limits for which he is appointed,—

- (a) enter, with such assistants (if any) as he thinks fit, any premises or ship where the processes are carried on ;
- (b) make such examination of the premises or ship and the machinery and gear, fixed or loose, used for the processes, and of any prescribed registers and notices, and take on the spot or otherwise such evidence of any person as he may deem necessary for carrying out the purposes of this Act, and
- (c) exercise any other powers which may be conferred upon him by the regulations made under section 5

5. Power to ²[Central Government] to make regulations.—

(1) The ²[Central Government] may make regulations—

- (a) providing for the safety of working places on shore and of any regular approaches over a dock, wharf, quarry or similar premises which workers have to use for going to or from a working place at which the processes are carried on, and for the lighting and fencing of such places and approaches ;
- (b) prescribing the nature of the means of access which shall be provided for the use of workers proceeding to or from a ship which is lying alongside a quay, hulk or other vessel ;
- (c) prescribing the measures to be taken to ensure the safe transport of workers proceeding to or from a ship by water and the conditions to be complied with by the vessels used for the purpose ;

¹ These words were substituted for the "Local Government", by the Government of India (Adaptation of Indian Laws) Order, 1937

² These words were substituted for the words "Governor General in Council", *ibid*

- (d) prescribing the nature of the means of access to be provided for the use of the workers from the deck of a ship to a hold in which the processes are carried on ,
- (e) prescribing the measures to be taken to protect hatchways accessible to the workers and other openings in a deck which might be dangerous to them ,
- (f) providing for the efficient lighting of the means of access to ships on which the processes are carried on and of all places on board at which the workers are employed or to which they may be required to proceed ,
- (g) providing for the safety of the workers engaged in removing or replacing hatch coverings and beams used for hatch coverings ,
- (h) prescribing the measures to be taken to ensure that no hoisting machine, or gear, whether fixed or loose, used in connection therewith, is employed in the processes on shore or on board ship unless it is in a safe working condition ,
- (i) providing for the fencing of machinery, live electric conductors and steam pipes ;
- (j) regulating the provision of safety appliances on derricks, cranes and winches ,
- (k) prescribing the precautions to be observed in regard to exhaust and live steam ;
- (l) requiring the employment of competent and reliable persons to operate lifting or transporting machinery used in the processes, or to give signals to a driver of such machinery, or to attend to cargo falls on winch ends or winch drums, and providing for the employment of a signaller where this is necessary for the safety of the workers ;
- (m) prescribing the measures to be taken in order to prevent dangerous methods of working in the stacking, unstacking, stowing and unstowing of cargo, or handling in connection therewith ;
- (n) prescribing the precautions to be taken to facilitate the escape of the workers when employed in a hold or between decks in dealing with coal or other bulk cargo ;

- (o) prescribing the precautions to be observed in the use of stages and trucks ;
- (p) prescribing the precautions to be observed when the workers have to work where dangerous or noxious goods are, or have been, stowed or have to deal with or work in proximity to such goods ;
- (q) providing for the rendering of first-aid to injured workers and removal to the nearest place of treatment ;
- (r) prescribing the provision to be made for the rescue of immersed workers from drowning ;
- (s) prescribing the Abstracts of this Act and of the Regulations required by section 8 ;
- (t) providing for the submission of notice of accidents and dangerous occurrences and prescribing the forms of such notices, the persons and authorities to whom they are to be furnished, the particulars to be contained in them and the time within which they are to be submitted ;
- (u) specifying the persons and authorities who shall be responsible for compliance with regulations made under this Act ;
- (v) defining the circumstances in which and conditions subject to which exemptions from any of the regulations made under this section may be given, specifying the authorities who may grant such exemptions and regulating procedure ;
- (w) defining the additional powers which Inspectors may exercise under clause (c) of section 4 ; and
- (x) providing generally for the safety of workers.

(2) Regulations made under this section may make special provision to meet the special requirements of any particular port or ports.

(3) In making a regulation under this section, the ¹[Central Government] may direct that a breach of it shall be punishable with fine which may extend to five hundred rupees, and when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

¹ These words were substituted for the words "Governor General in Council" by the Government of India (Adaptation of Indian Law) Order, 1937.

6. Power to ¹[Central Government] to make rules.—²
the ¹[Central Government] may make rules regulating—

- (a) the inspection of premises or ships where the processes are carried on ; and
- (b) the manner in which Inspectors are to exercise the powers conferred on them by this Act.

7. General provisions relating to regulations and rules.—

(1) The power to make regulations and rules conferred by sections 5 and 6 is subject to the condition of the regulations and rules being made after previous publication.

(2) Regulations and rules shall be published in '[the Official Gazette].

8. Abstracts of Act and Regulations to be conspicuously posted.—There shall be affixed in some conspicuous place near the main entrance of every dock, wharf, quay or similar premises where the processes are carried on, in English and in the language of the majority of the workers, the Abstracts of this Act and of the Regulations made thereunder which may be prescribed by the regulations.

9. Penalties.—Any person who—

- (a) wilfully obstructs an Inspector in the exercise of any power under section 4, or fails to produce on demand by an Inspector any registers or other documents kept in pursuance of the regulations made under this Act, or any gear, fixed or loose, used for the processes, or conceals or prevents or attempts to prevent any person from appearing before, or being examined by, an Inspector, or
- (b) unless duly authorised, or in case of necessity, removes any fencing, gangway, gear, ladder, life-saving means or appliance, light, mark, stage or other thing required to be provided by or under the regulations made under this Act, or

¹ These words were substituted for the words "Local Government", *ibid.*

² The words "Subject to the control of the Governor General in Council" were omitted, *ibid.*

³ These words were substituted for the words "the Gazette of India and the local official Gazette respectively", *ibid.*

- (c) having in case of necessity removed any such fencing, gangway, gear, ladder, life-saving means or appliance, light, mark, stage or other thing, omits to restore it at the end of the period for which its removal was necessary,

shall be punishable with fine which may extend to five hundred rupees

10. Provisions relating to jurisdiction.—(1) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act or the regulations made thereunder.

(2) No prosecution for any offence under this Act or the regulations made thereunder shall be instituted except by or with the previous sanction of an Inspector.

(3) No Court shall take cognizance of any offence under this Act or the regulations made thereunder, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

11. Power to exempt.—The ¹[Central Government] may, by notification in the ²[official Gazette], exempt from all or any of the provisions of this Act and of the regulations made thereunder, on such conditions, if any, as he thinks fit,—

- (a) any port or place, dock, wharf, quay or similar premises at which the processes are only occasionally carried on or the traffic is small and confined to small ships, or
- (b) any specified ship or class of ship.

12. Protection to persons acting under this Act.—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

¹ These words were substituted for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Gazette of India", *ibid*

INDIAN DOCK LABOURERS REGULATIONS, 1948

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INDIAN DOCK LABOURERS REGULATIONS, 1948¹

In exercise of the powers conferred by section 5 of the Indian Dock Labourer's Act, 1934 (XIX of 1934), the Central Government is pleased to make the following Regulations, the same having been previously published as required by section 7 of the said Act, namely :—

INDIAN DOCK LABOURERS REGULATIONS, 1948

PART I

1. Title and application.—(1) These Regulations may be called the Indian Dock Labourers Regulations, 1948.

(2) They shall apply only within the limits of major port as defined by or under the Indian Ports Act, 1908.

2. Definitions—In these Regulations, unless there is anything repugnant in the subject or context—

- (a) "The Act" means the Indian Dock Labourers Act, 1934 (XIX of 1934) ;
- (b) "form" means a Form appended to these Regulations ;
- (c) "hatch" means an opening in a deck used for the purpose of the processes or for trimming or for ventilation ;
- (d) "hatchway" means the whole space within the square of the hatches, from the top deck to the bottom of the hold ;

¹ These Regulations were published under Ministry of Labour Notification No. Fac. 38 (1) B, dated the 10th January, 1948 in Gazette of India, Part I, dated the 17th January, 1948.

- (e) "inspector" means an Officer authorised by the Central Government under Section 3 of the Act ;
- (f) "lifting machinery" means cranes, winches, hoists, derrick booms, derrick and mast bands, goose necks, eyebolts, and all other permanent attachments to the derricks, masts and decks, used in hoisting or lowering in connection with the processes ;
- (g) "process" includes all work which is required for or is incidental to the loading or unloading of cargo or fuel into or from a ship and is done on board the ship or alongside it ;
- (h) "prescribed" means prescribed by the Central Government ;
- (i) "premises" means any dock, wharf, quay, or landing place where the processes of loading or unloading of cargo or fuel into or from a ship are carried on ;
- (j) "pulley block" means pulley, block, gin and similar gear, other than a crane block specially constructed for use with a crane to which it is permanently attached ;
- (k) "schedule" means a schedule appended to these Regulations ;
- (l) "ship" does not include country craft, barges or lighters, but includes any other vessel used in navigation not exclusively propelled by oars ;
- (m) "worker" means any person employed in the processes ; and
- (n) words and expressions not defined in the Regulations but defined or used in the Act have the meaning assigned to them in the Act

3. Powers of Inspectors.—(1) An Inspector may, with such assistance (if any) as he thinks fit,—

- (i) enter, inspect and examine at any time by day or night any premises or ship where the processes are carried on ;
- (ii) make such examination of the premises or ship and the machinery and gear, fixed or loose, used in the processes as he may deem necessary for carrying out the purposes of the Act ;

(iii) require the production of any registers, certificates, notices and documents required to be kept in pursuance of the Act and Regulations and inspect, examine and copy of them ;

(iv) examine and take on the spot or otherwise such evidence of any person as he may deem necessary.

(2) The person having the general management and control of the premises and the owner, master, Officer in charge or agents of the ship as the case may be shall furnish such means as may be required by an Inspector for entry, inspection, examination, inquiry, or otherwise for the exercise of his powers under the Act and Regulations in relation to that ship or premises.

4. *Duties of Inspectors*—(a) An Inspector shall at each inspection of any premises or ship satisfy himself that the provisions made in the Act and Regulations are fully observed

(b) An Inspector shall hold an enquiry into the causes of any accident which he has reason to believe was the result of the collapse or failure of lifting machinery or non-compliance with any of the provisions of the Act and Regulations.

(c) An Inspector shall ascertain at each inspection how far any defects disclosed at a previous inspection have been rectified and how far any orders previously issued by him have been complied with. His findings and any defects which may come to light during the current inspection, together with any orders passed by him under the Act or these Regulations shall be recorded in an Inspection Register maintained in accordance with clause (d) below.

An extract from the record including the orders of the Inspector together with any remarks he may wish to make or any defects found to exist in such ship or premises that he may wish to bring to notice shall be sent to the owner, master, officer in charge or agents of the ship or the person in general management and control of the premises, as the case may be, in Form IX.

(d) The Inspector shall keep and properly maintain a record of his inspections in a separate Register specially maintained for the purpose.

5. *Penalties*.—Whoever being a person whose duty it is to comply with any of these Regulations commits a breach of such Regulations shall be punishable with fine which may extend, in the

case of breach of Regulations 58, 59 and 61 to Rs. 200, and in any other case to Rs. 500, and when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

PART II

6. Responsibilities—It shall be the duty of the person having the general management and control of a dock, wharf, or quay to comply with Regulation 7—14 and 63.

Provided that if any other person has by exclusive right to occupation of any part of the dock, wharf, or quay, and has the general management and control of such part, the duty in respect of that part shall devolve upon that other person.

7. Fencing of working places and approaches—(1) Every regular approach over a dock, wharf or quay which workers have to use for going to or from a working place at which the processes are carried on and every such working place on shore shall be maintained with due regard to the safety of the workers.

(2) In particular, the following parts shall, as far as is practicable having regard to the traffic and working be securely fenced so that the height of the fence shall be in no place less than two feet six inches, and the fencing shall be maintained in good condition ready for use:—

- (a) all breaks, dangerous corners, and other dangerous parts or edges of a dock, wharf, or quay;
- (b) both sides of such footways over bridges, caissona, and dock gates as are in general use by workers and each side of the entrance at each end of such footway for a sufficient distance not exceeding five yards:

Provided that in the case of fences which were constructed before the date of promulgation of these Regulations, it shall be sufficient if the height of the fence is in no place less than two feet three inches.

8. Lighting of working-places and approaches.—All places in which workers are employed and any dangerous parts of the regular road or way over a dock, wharf, or quay, forming the approach to any such place from the nearest highway, shall be safely and efficiently lighted.

9. Life-saving appliances—Provision for the rescue from drowning of workers shall be made and maintained and shall include—

- (a) a supply of life-saving appliances, kept in readiness on the wharf or quay, which shall be reasonably adequate having regard to all the circumstances, and
- (b) means at or near the surface of the water at reasonable intervals for enabling a person immersed to support himself or escape from the water which shall be reasonably adequate having regard to all the circumstances

10. First-aid—(1) First-aid equipment of the standard set out in Schedule I shall be provided at docks, wharves, quays and similar places which are in frequent use for the processes and, if more than one is provided, at reasonable distances from each other.

(2) Every first-aid box or cupboard shall be clearly marked "FIRST AID".

(3) Nothing except appliances or requisites for first-aid shall be kept in a first-aid box or cupboard.

(4) First-aid boxes or cupboards shall be kept stocked and in good order and shall be placed under the charge of a responsible person who shall always be readily available during working hours. Such person shall, except at docks, wharves or quays at which the total number of workers at any time does not exceed fifty, be a person, trained in first-aid.

11. Ambulances.—There shall be provided for use at every dock, wharf or quay at which the total number of workers at any time exceeds fifty, a suitably constructed motor ambulance carriage or launch maintained in good condition, for the purpose of the removal of serious cases of accident or sickness, unless arrangements have been made for obtaining such a carriage or launch when required from a hospital or other place situate not more than two miles from the dock, wharf or quay, and in telephone communication therewith.

12. Report of accidents and dangerous occurrences.—(1) Whenever any accident occurs which either—

- (a) causes loss of life to a worker, or
- (b) causes such severe injury to a worker that there is no reasonable hope that he will be able to return to work within 48 hours.

written notice of the accident shall forthwith be sent by telegram, telephone or special messenger within four hours of the occurrence, to

- (i) the relatives of the injured or deceased person ,
- (ii) the Inspector notified for this purpose , and
- (iii) in the case of fatal accidents only,
 - (a) the Officer-in-charge of the nearest Police Station, and
 - (b) the District Magistrate or if the District Magistrate by order so directs, the Sub-Divisional Magistrate

Provided that a notice of any accident of which notice is sent in accordance with the requirements of the Explosives Act, 1884, or the Petroleum Act, 1934, need not be sent in accordance with the requirements of this Regulation.

In cases of sub-clause (b) of clause (1) above, the injured person shall be given first-aid and thereafter immediately conveyed to the hospital or other place of treatment.

(2) Where any accident causing disablement is notified under this Regulation and after notification thereof results in the death of the person disabled, notice in writing of the death shall be sent to the authorities mentioned in clause (1) immediately the death occurs.

(3) All cases of collapse or failure of lifting machinery ¹[and breakages of ropes, chains or other appliances used in raising or lowering persons or goods] whether personal injury or disablement is caused or not, shall forthwith be reported to the Inspector.

13. Washing facilities.—There shall be provided and maintained in good and clean condition for the use of workers engaged in loading or unloading coal and dangerous and noxious goods suitable facilities for washing at conveniently accessible places.

14. Notices.—Notices shall be exhibited in prominent positions at every dock, wharf, or quay stating—

- (a) the position of each first-aid box and the place where the person in charge thereof can be found
- (b) the position of stretchers or other appliances, and
- (c) the position of the ambulance carriage or, where such is not provided, the position of the nearest telephone and the name and telephone number of the hospital or other place from which such carriage may be obtained.

¹ These words were inserted by Ministry of Labour Notification No. Fac. 33 (9), dated 14th May, 1949.

PART III

15. Responsibilities—It shall be the duty of the owner, master, officer in charge or agents of the ship to comply with Regulations 16 to 24

16. Access between shore and ship.—If a ship is lying at a wharf or quay for the purpose of loading or unloading or coaling there shall be safe means of access for the use of workers at such times as they have to pass from the ship to the shore or from the shore to the ship as follows.—

(a) where reasonably practicable the ship's accommodation ladder or a gangway or a similar construction not less than twenty-two inches wide, properly secured and fenced throughout on each side to a clear height of two feet nine inches by means of upper and lower rails, taut ropes or chains or by other equally safe means, except that in the case of the ship's accommodation ladder such fencing shall be necessary on one side only provided that the other side is properly protected by the ship's side

(b) in other cases a ladder of sound material and adequate length which shall be properly secured to prevent slipping :

Provided that nothing in this Regulation shall be held to apply to cargo stages or cargo gangway if other proper means of access is provided in conformity with these Regulations .

Provided also that as regards any sailing vessel not exceeding 250 tons net registered tonnage and any mechanically propelled vessel not exceeding 150 tons gross registered tonnage this Regulation shall not apply if and while the conditions are such that it is possible without undue risk to pass to and from the ship without the aid of any special appliances.

17. Access from ship to another vessel.—(1) If a ship is alongside another vessel, and workers have to pass from one to the other, safe means of access shall be provided for their use unless the conditions are such that it is possible to pass from one to the other without undue risk and without the aid of any special appliance

(2) If the other vessel is a sailing barge, flat, keel, lighter or other similar vessel of relatively low freeboard, the means of access shall be provided by the ship which has the higher freeboard.

18. Access between deck and hold.—(1) If, the depth from the level of the deck to the bottom of the hold exceeds five feet, there shall be maintained safe means of access from the deck to the hold in which work is being carried on.

(2) Save as hereinafter provided such access shall be afforded by ladder, and by ladder cleats or cups on the coamings, shall not be deemed to be safe—

- (a) unless the ladders between the lower decks are in the same line as the ladder from the top deck, if the same is practicable having regard to the position of the lower *hatch* or *hatches* ;
- (b) unless the ladders provide a foothold of a depth including any space behind the ladder of not less than $4\frac{1}{2}$ inches for a width of 10 inches and a firm handhold ;
- (c) unless the cleats or cups provided on coamings (i) provided a foothold of a depth including any space behind the cleats or cups of not less than $4\frac{1}{2}$ inches for a width of 10 inches and a firm handhold ; (ii) are so constructed as to prevent a man's foot slipping off the side ; (iii) are placed vertically one above the other and in the same line as the ladders to which they give access ;
- (d) unless the cargo is stowed sufficiently far from the ladder to leave at each rung of the ladder foothold of a depth including any space behind the ladder of not less than $4\frac{1}{2}$ inches for a width of 10 inches and a firm handhold ;
- (e) unless there is room to pass between a winch or other obstruction and the coamings at the place where the ladder leaves the deck ; or
- (f) if the ladder is recessed under the deck more than is reasonably necessary to keep the ladder clear of the *hatchway* :

Provided that such access may be afforded—

- (i) where the provision of a ladder on a bulkhead or in a trunk *hatchway* can be shown to be reasonably impracticable, by cleats or cups complying with the requirements of clause (c) ;
- (ii) by ladders or steps, separate from any *hatchway* or sloping from deck to deck, if such ladders or steps comply with the requirements of clauses (b), (d) and (e).

(3) Shaft tunnels shall be equipped with adequate handhold and foothold on each side.

19. *Lighting for processes on ships*—When the *processes* are being carried on—

- (a) the places in the hold and on the decks where work is being carried on.
- (b) the means of access provided in pursuance of regulations 16 and 17, and
- (c) all parts of the ship to which workers may be required to proceed in the course of their employment, shall be efficiently lighted, due regard being had to the safety of the ship and cargo, of all workers and of navigation of other vessels and to the provisions of any law and of any rules, regulations, orders or bye-laws having the force of law.

20. *Beams used for hatch coverings*—All fore and aft beams and thwartship beams used for *hatch* covering shall have suitable gear for lifting them on and off without it being necessary for any person to go upon them to adjust such gear.

21. *Marking of beams and hatch coverings*.—(1) All *hatch* coverings shall be kept plainly marked to indicate the deck and *hatch* to which they belong and their position therein :

Provided that this Regulation shall not apply in cases where all the *hatch* coverings of a ship are interchangeable or, in respect of marking of position, where all *hatch* coverings of a *hatch* are interchangeable.

(2) Sub-Regulation (1) shall also apply to fore and aft beams and to thwartship beams as it applies to *hatch* coverings.

22. *Maintenance of beams and hatch covering*.—All fore and aft beams, and thwartship beams used for *hatch* coverings and all *hatch* coverings shall be maintained in good condition.

23. *Hand grips*.—Adequate hand grips shall be provided on all *hatch* coverings, having regard to their size and weight, unless the construction of the *hatch* or the *hatch* coverings is of a character rendering the provision of hand grips unnecessary.

24. *Dangerous or toxic fumes*.—No person shall be allowed in any hold wherein dangerous or toxic fumes are liable to be present to such an extent as to involve risks of persons being overcome

unless all practical steps have been taken to remove any fumes which may be present and to prevent any further ingress of fumes from sludge or other sources and the responsible authority under this part has satisfied himself that the space is free from dangerous fumes and fit for persons to enter or unless a person entering such hold has been provided with suitable protective equipment.

PART IV

25. Responsibilities—It shall be the duty of the owner of machinery or plant used in the processes and in the case of machinery or plant carried on board a ship, not being a ship registered in the Provinces, it shall also be the duty of the master or chief officer of such a ship to comply with Regulations 26 to 43.

26. Competent person.—In this Part, the expression “competent person” means :—

- (a) in the case of machinery or plant not carried on board a ship, any person appointed in that behalf by the Port Authority with the sanction of the Central Government ,
- (b) in the case of machinery or plant carried on board a ship, an official of a workshop approved in that behalf by the Central Government, or except for the purposes of Regulation 29 (2), a person nominated in that behalf by an authority approved by the Central Government for the purpose of nominating competent persons, and includes in the case of machinery and plant carried on board a ship registered elsewhere than in the Provinces, any person who is recognized as a competent person for the purposes of the national Regulations in force for the implementation of the Protection against Accidents (Dockers) Convention (Revised) 1932, adopted by the International Labour Conference.

27. Lifting machinery.—(1) *All lifting machinery* shall have been tested and examined by a competent person in the manner set out in Schedule II before being taken into use.

(2) All derricks and permanent attachments, including bridle chains, to the derrick, mast and deck used in hoisting or lowering shall be inspected once in every twelve months and be thoroughly examined once at least in every four years.

(3) All other *lifting machinery* shall be thoroughly examined once at least in every four years.

(4) For the purposes of the Regulation thorough examination means a visual examination, supplemented if necessary by other means such as a hammer test, carried out as carefully as the conditions permit, in order to arrive at a reliable conclusion as to the safety of the parts, examined, and if necessary for the purpose, parts of the machinery and gear, shall be dismantled.

28. *Special types of loose gear*—The following clauses of gear, namely—

- (1) chains made of malleable cast iron ;
- (2) plate link chains ,
- (3) chains, rings, hooks, shackles and swivels made of steel ;
- (4) pitched chains ;
- (5) rings, hooks, shackles and swivels permanently attached to pitched chains, pulley blocks or weighing machines ;
- (6) hooks and swivels having screw-threaded parts or ball bearings or other case-hardened parts ; and
- (7) Bordeaux connections,

shall be thoroughly examined by a competent person once at least in every twelve months.

For the purposes of this regulation thorough examination means a visual examination supplemented if necessary by other means, carried out as carefully as the conditions permit, in order to arrive at a reliable conclusion as to the safety of the parts examined, and if necessary for the purpose, parts of the gear shall be dismantled.

29. *Other loose gear.*—(1) No chain, ring, hook, shackle, swivel or *pulley block* shall be used in hoisting or lowering unless it has been tested and examined by a competent person in the manner set out in Schedule II.

(2) All chains other than bridle chains attached to derricks or masts and all rings, hooks, shackles and swivels used in hoisting or lowering shall unless they have been subjected to such other treatment as an Inspector may, subject to confirmation by the Central Government, approve, be effectually annealed under the supervision of a competent person and at the following intervals:—

- (i) half-inch and smaller chains, rings, hooks, shackles and swivels in general use, once at least in every six months ;
- (ii) all other chains, rings, hooks, shackles and swivels in general use once at least in every twelve months :

Provided that nothing in this Sub-Regulation shall apply to any of the gear mentioned in Regulation 28 :

Provided also that in the case of such gear used solely on cranes and other hoisting appliances worked by hand twelve months shall be substituted for six months in sub-clause (i) and two years for twelve months in sub-clause (ii) :

Provided also that where an Inspector is of opinion, that, owing to the size, design, material or infrequency of use of any such gear or class of such gear, the requirement of this Regulation as to annealing is not necessary for the protection of *workers*, he may by certificate in writing (which he may in his discretion revoke) and subject to confirmation by the Central Government exempt such gear or class of gear from such requirement subject to such conditions as may be specified in such certificate.

(3) All chains, other than bridle chains attached to derricks or masts, and all rings, hooks, shackles, swivels and all *pulley blocks* shall be inspected by a competent person immediately before being taken into use unless they have been inspected within the preceding three months.

(4) All chains, rings, hooks, shackles or swivels used in hoisting or lowering which have been lengthened, altered or repaired by welding shall before being again taken into use be adequately tested and re-examined by a competent person in the manner set out in Schedule II.

30. Ropes.—(1) No rope shall be used in hoisting or lowering unless—

- (a) it is of suitable quality and free from patent defect and
- (b) in the case of wire rope, it has been examined and tested by a competent person in the manner set out in Schedule II.

(2) Every wire rope in general use for hoisting or lowering shall be inspected by a competent person once at least in every three months, provided that after any wire has broken in such rope it shall be inspected once at least in every month.

(3) No wire rope shall be used in hoisting or lowering if in any length of eight diameters the total number of visible broken wires exceeds ten per cent. of the total number of wires or the rope shows signs of excessive wear, corrosion or other defect which, in the opinion of the person who inspects it, renders it unfit for use.

(4) A thumble or loop splice made in any wire rope shall have at least three tucks with a whole strand of the rope and two tucks with one half of the wires cut out of each strand and the strands in all cases shall be tucked against the lay of the rope.

Provided that this Regulation shall not operate to prevent the use of another form of splice which can be shown to be as efficient as that laid down in this Regulation.

31. Register of periodical examination.—A register in Form II shall be maintained in which shall be entered particulars of —

- (a) annual inspections and quadrennial examinations required by Regulation 27 (2) ;
- (b) annual examination required by Regulation 27 (3) ;
- (c) the examinations mentioned in Regulation 32 (2) ; and
- (d) the annealing under Regulation 29 (2) of chains, rings, etc , unless the certificate mentioned in Regulation ¹[28] has been attached to the register in Form II.

32. Certificates of competent persons.—(1) Certificate shall be prepared and attached to the register in Form II in respect of the following in the Forms shown against each —

- (a) test and examination under Regulation 27 (1) of—
 - (i) winches, derricks and their accessory gear—Form III ;
 - (ii) cranes or hoists and their accessory gear—Form IV ;
- (b) test, examination and re-examination, under Regulation 29 (1) and (4) of chains, rings, hooks, shackles, swivels and pulley-blocks—Form V ;
- (c) test and examination under Regulation 30 (1) (b) of wire rope—Form VI.

(2) Certificates shall be prepared of the annealing of chains, etc., under Regulation 29 (2) in Form VII, and unless the required particulars have been entered in the register in Form II, shall be attached to that register.

(3) Certificates shall be prepared of the annual thorough examination of the gear mentioned in Regulation 28 in Form VIII.

33. Maintenance and production of register and certificates.—The register and the certificates attached to the register—

- (a) shall be kept on the premises unless some other place has been approved in writing by an Inspector ;

¹ The word "28" was substituted for the word "32 (2)" by the Ministry of Labour Notification No. Fac. 38 (9), dated 14th May, 1949.

- (b) shall be produced on demand before an Inspector ; and
- (c) shall be retained for at least four years after the date of the last entry.

34. Machinery, etc , not to be brought into use until the necessary entries are made in the Register—No machinery, chain, rope or other gear in respect of which an entry is required to be made in the register in Form II, or in respect of which a certificate is required to be attached to such register, whether as an alternative to an entry in Form II or otherwise, or in respect of which a certificate is required to be prepared, shall be used unless and until the required entry has been made, or the required certificate has been so attached or prepared, as the case may be.

35. Pulley blocks—No *Pulley block* shall be used in hoisting or lowering unless the safe working load is clearly stamped upon it.

36. Safe working load for chains and slings.—Means shall be provided to enable any person using a chain or wire rope sling to ascertain the safe working load for such chain or sling under such conditions as it may be used. Such means shall consist—

- (a) as regards chain slings, of marking the safe working load in plain figures or letters upon the sling or upon a tablet or ring of durable material attached securely thereto, and
- (b) as regards wire rope slings, of either the means specified in clause (a), or a notice or notices, so exhibited as to be easily read by any person concerned, stating the safe working loads for the various sizes of wire rope slings used.

37. Maintenance of chains.—Chains shall not be shortened by tying knots in them ; and suitable packing shall be provided to prevent the links coming into contact with sharp edges of loads of hard material.

38. Fencing of motors, etc.—All motors cogwheels, chain and friction gearing, shafting, live electric conductors and steam pipes shall (unless it can be shown that by their position and construction they are equally safe to every worker as they would be if securely fenced) be securely fenced so far as is practicable without impeding the safe working of the ship and without infringing any rules, regulations, orders or bye-laws, having the force of law.

39. *Precautions against accidental fall of loads*—Cranes and winches shall be provided with such means as will reduce to a minimum the risk of the accidental descent of a load while being raised or lowered ; in particular, the lever controlling the link motion reversing gear of a crane or winch shall be provided with a suitable spring or other locking arrangement

40. *Fencing of and access to cranes.*—The driver's platform on every crane or tip driven by mechanical power shall be securely fenced and shall be provided with safe means of access. In particular, where access is by a ladder—

- (a) the sides of the ladder shall extend to a reasonable distance beyond the platform or some other suitable handhold shall be provided ;
- (b) the landing place on the platform shall be maintained free from obstruction ;
- (c) in cases where the ladder is vertical and exceeds thirty feet in height, a resting place shall be provided approximately midway between the platform and the foot of the ladder.

41. *Safe working load for cranes, etc* —Every crane and derrick shall have the safe working load plainly marked upon it, and every shore crane if so constructed that the safe working load may be varied by the raising or lowering of the jib or otherwise, shall have attached to it an automatic indicator of safe working loads provided that in cases where the jib may be raised or lowered, provision on the crane of a table showing the safe working loads at the corresponding inclinations or radii of the jib shall be considered sufficient compliance

42. *Steam.*—Adequate measures shall be taken to prevent exhaust steam from, and so far as is practicable live steam to, any crane or winch obscuring any part of the gangways, stages, wharf, or quay where any person is employed in the processes.

43. *Derricks.*—Appropriate measures shall be taken to prevent the foot of a derrick being accidentally lifted out of its socket or support

PART V

44. *Responsibilities.*—It shall be the duty of every person who by himself, his agents, or employees carries on the processes, and

of all agents, employees and workers employed by him in the processes, to comply with Regulations 45 to 57.

Provided that where the processes are carried on by a stevedore or other person other than the owner of the ship, it shall be the duty of the owner, master or officer in charge of the ship to comply with Regulation 50 so far as it concerns—

- (1) any hatch not taken over by the said stevedore or other person for the purpose of the processes, and
- (2) any hatch which, after having been taken over by the said stevedore or other person for the purpose of the processes—
 - (i) has been reported by written notice in Form I to the owner, master or officer in charge of the ship, by or on behalf of the said stevedore or other person as being a hatch at which the processes have been completed or completed for the time being, and
 - (ii) either has been left by the said stevedore or other person fenced or covered as required by Regulation 50 or has been taken into use by or on behalf of the owner of the ship, and in either case has been so reported by such written notice as aforesaid.

It shall be the duty of the owner, master or officer in charge of the ship to give immediately a written acknowledgment in Form I of such written notice as aforesaid.

45. *Escape from holds, etc.*—Precautions shall be taken to facilitate the escape of the workers when employed in a hold or on 'tween decks in dealing with coal or other bulk cargo.

46. *Loading of lifting machinery*—(1) No *lifting machinery*, chains or other lifting appliance shall be loaded beyond the safe working load :

Provided that a crane may be loaded beyond the safe working load in exceptional cases to such extent and subject to such conditions as may be approved by the engineer in charge or other competent person, if on each occasion—

- (a) the written permission of the owner or his responsible agent has been obtained, and
- (b) a record of the overload is kept :

Provided also that, where the load upon a single sheave *pulley block* is attached to the *pulley block* instead of to the chain or rope passing round the sheave, the load on the *pulley block* shall be deemed for the purpose of this Regulation to be half the actual load.

(2) No load shall be left suspended from a crane, winch, or other machine unless there is a competent person actually in charge of the machine while the load is so left.

47. Drivers of cranes, etc.—No person under 18 years of age and no person who is not sufficiently competent and reliable shall be employed as driver of a crane or winch, whether driven by mechanical power or otherwise, or to give signals to a driver or to attend to cargo falls on winch-ends or winch-bodies.

48. Passages to be kept clear.—Where goods are placed on a wharf or quay,—

(a) a clear passage leading to the means of access to the ship required by Regulation 11 shall be maintained on the wharf or quay; and

(b) if any space is left along the edge of the wharf or quay, it shall be at least three feet wide and clear of all obstructions other than fixed structures, plant and appliances in use.

49. Deck and cargo-stages.—(1) No deck-stage or cargo-stage shall be used in the *processes* unless it is substantially and firmly constructed and adequately supported, and, where necessary, securely fastened.

(2) No truck shall be used for carrying cargo between ship and shore on a stage so steep as to be unsafe.

(3) Any stage which is slippery shall be made safe by the use of sand or otherwise.

50. Hatches not in use—(1) If any hatch of a hold accessible to any worker and exceeding five feet in depth, measured from the level of the deck in which the *hatch* is situated to the bottom of the hold, is not in use for the passage of goods, coal or other material, or for trimming, and the coamings are less than two feet six inches in height, such *hatch* shall either be fenced to a height of three feet or be securely covered:

Provided that this requirement shall not apply (i) to vessels not exceeding 200 tons net registered tonnage which have only one *hatch*-

way, and (u) to any vessel during meal times or other short interruptions of work during the period of employment

(2) *Hatch* coverings shall not be used in the construction of deck or cargo stages, or for any other purpose which may expose them to damage

(3) *Hatch* coverings shall be replaced on the hatches in the positions indicated by the markings made thereon in pursuance of Regulation 21.

51. *Handing at intermediate decks.*—No cargo shall be loaded or unloaded by a fall or sling at any intermediate deck unless either the *hatch* at that deck is securely covered or a secure landing platform of a width not less than that of one section of *hatch* coverings has been placed across it:

Provided that this Regulation shall not apply to any process of unloading the whole of which will be completed within a period of half an hour.

52. *Hooks for bales, etc.*—When the working space in a hold is confined to the square of the *hatch*, hooks shall not be made fast in the bands or fastenings of bales of cotton, wool, cork, gunny bags or other similar goods, nor shall can hooks be used for raising or lowering a barrel when, owing to the construction or condition of the barrel or of the hooks, their use is likely to be unsafe

Nothing in this Regulation shall apply to breaking out or making up slings.

53. *Skeleton decks.*—When work is proceeding on any skeleton deck, adequate staging shall be provided unless the space beneath the deck is filled with cargo to within a distance of two feet of such deck.

54. *Stowing and unstowing*—Where stacking, unstacking, stowing or unstowing of cargo or handling in connection therewith cannot be safely carried out unaided reasonable measures to guard against accident shall be taken by shoring or otherwise.

55. *Hatches in use.*—The beams of any *hatch* in use for the processes, shall, if not removed, be adequately secured to prevent their displacement.

56. *Signallers*—When cargo is being loaded or unloaded by a fall at a *hatchway*, a signaller shall be employed, and where more than one fall is being worked at a *hatchway*, a separate signaller shall be employed to attend to each fall.

Provided that—

- (i) this Regulation shall not apply, in cases where a barge, lighter or other similar vessel is being loaded or unloaded if the driver of the crane or winch working the fall has a clear and unrestricted view of those parts of the hold where work is being carried on, and
- (ii) where the Inspector is of opinion that, owing to the nature of the crane or winch or other appliance in use or by reason of any special arrangements, the requirements of this Regulation are not necessary for the safety of workers, he may by certificate in writing (which he in his discretion revoke) suspend such requirements subject to such conditions as may be specified in such certificate

57. *Transport of workers*—When any worker has to proceed to or from a ship by water for the purpose of carrying on the processes, proper measures shall be taken to provide for his safe transport. Vessels used for this purpose shall be in charge of a competent person, shall not be over-crowded, and shall be properly equipped for safe navigation and maintained in good condition.

PART VI

58. *Responsibilities*.—It shall be the duty of all persons, whether owners, occupiers or workers, to comply with the Regulations in Part VI.

59. *Workers to use proper means of access*.—Every worker shall use the means of access provided in accordance with Regulations 16, 17 and 18, and no person shall authorise or order another to use means of access other than those provided in accordance therewith.

60. *Persons not to go upon beams for adjusting gear*.—No person shall go upon the fore and aft beams or thwartship beams for the purpose of adjusting the gear for lifting them on and off nor shall any person authorise or order another to do so.

PART VII

61. *Employer's responsibility for machinery, etc.*—No employer shall allow the use by workers of machinery or gear which does not comply with the Regulations in Part IV.

62. *Employer's responsibility for safe access and lighting—*

If the persons whose duty it is to comply with Regulations 16, 17 and 19 fail so to do, then it shall also be the duty of the employers of the workers for whose use the means of access and the lights are required, to comply with the said Regulations within the shortest time reasonably practicable after such failure.

PART VIII

63. *Abstracts to be affixed*—The Abstracts of the Indian Dock Labourers Act, 1934, and of these Regulations which are to be affixed in accordance with section 8 of the said Act in some conspicuous place near the main entrance of every dock, wharf, quay or similar premises where the *processes* are carried on, shall consist of sections 3 (1), 3 (2), 4 (a), 4 (b), 9, 10 (2) of the said Act and Regulations 2 (g), 2 (m), 3-5 and 7, 19, 33-35, 57-62 and Schedule II

SCHEDULE I

(*Vide Regulation 10*)

At least two standard Army pattern or "Furley" telescopic handle stretchers complete with slings and a suitably constructed sling stretcher or other similar appliance for raising injured persons from holds of ships.

One or more first aid boxes or cupboards which shall comply with the following standard:—

Each first-aid box or cupboard shall contain at least:—

1. A copy of the first-aid leaflet issued by the Chief Adviser, Factories, Ministry of Labour, Government of India, New Delhi.
2. Forty-eight sterilised finger dressings.
3. Twenty-four sterilised hand or foot dressings.
4. Twenty sterilised large or body dressings.
5. Six small, four large and two extra large sterilised burn dressings.
6. Three half-ounce packets sterilised cotton wool.
7. A bottle of two per cent tincture of iodine.
8. A bottle of sal volatile.
9. Eye drops, prepared as described in the first-aid leaflet.
10. Set of splints, cotton wool for padding.

11. Spool, ten yards by one inch, of adhesive plaster.
12. St. John Tourniquet
13. Eighteen assorted roller bandages in envelopes.
14. Nine triangular bandages in envelopes.
15. Box of safety pins.
16. One pair surgical scissors.
17. Two ounce medicine glass.

SCHEDULE II

Manner of Test and Examination before taking Lifting Machinery and Gear into use

Regulations 27 (1), 29 (1) and 30 (1).—(a) Every winch with the whole of the gear accessory thereto (including derricks, goose necks, eye plates, eye-bolts or other attachments) shall be tested with a proof load which shall exceed the safe working load as follows:—

<i>Safe working load</i>	<i>Proof load</i>
Up to 20 tons	25 per cent. in excess
20—50 tons	5 tons in excess
Over 50 tons	10 per cent. in excess

The proof load shall be applied either (i) by hoisting movable weights or (ii) by means of a spring or hydraulic balance or similar appliance, with the derrick, at an angle to the horizontal which shall be stated in the certificate of the test. In the former case, after the movable weights have been hoisted, the derrick shall be swung as far as possible in both directions. In the latter case, the proof load shall be applied with the derrick swung as far as practicable first in one direction and then in the other.

(b) Every crane and other hoisting machine with its accessory gear shall be tested with a proof load which shall exceed the safe working load as follows:—

<i>Safe working load</i>	<i>Proof load</i>
Up to 20 tons	25 per cent. in excess
20—50 tons	5 tons in excess
Over 50 tons	10 per cent. in excess

The said proof load shall be hoisted and swung as far as possible in both directions. In the case of a jib-crane if the jib has a variable radius, it shall be tested with a proof load as defined above at the

maximum and minimum radii of the jib. In the case of hydraulic cranes or hoists, where, owing to the limitation of pressure, it is impossible to hoist a load 25 per cent in excess of the safe working load, it shall be sufficient to hoist the greatest possible load

(c) Every article of loose gear (whether it is accessory to a machine or not) shall be tested with a proof load at least equal to that shown against the article in the following table.—

<i>Article of Gear</i>	<i>Proof load</i>
Pitched chains used with hand operated Pulley Blocks and Rings Hooks, Shackles or Swivels permanently attached thereto	One and a half times the safe working load
Other Chams	Twice the safe working load
„ Rings	
„ Hooks	
„ Shackles	
„ Swivels	
Hand operated Pulley Blocks used with Pitched Chains and Rings, Hooks, Shackles or Swivels permanently attached thereto	One and a half times the safe working load
<i>Other Pulley Blocks—</i>	
Single Sheave Block	Four times the safe working load.
Multiple Sheave Block with safe working load up to and including 20 tons	Twice the safe working load.
Multiple Sheave Block with safe working load over 20 tons up to and including 40 tons	Twenty tons in excess of the safe working load
Multiple Sheave Block with safe working load over 40 tons	One and a half times the safe working load

Provided that where an Inspector is of opinion that, owing to the size, design, construction, material or use of any such loose gear or class of such gear, any of the above requirements are not necessary for the protection of workers, he may by certificate in writing (which he may in his discretion revoke), and subject to confirmation by the Central Government exempt such gear or class of gear from such requirement, subject to such conditions as may be stated in the certificate

(d) After being tested as aforesaid, all machines with the whole of the gear accessory thereto and all loose gear shall be examined, the sheaves and the pins of the *pulley blocks* being removed for the purpose, to see that no part is injured or permanently deformed by the test.

(e) In the case of wire rope, a sample shall be tested to destruction and the safe working load shall not exceed one fifth of the breaking load of the sample tested.

FORM I

Notice to the owner, master or officer in charge (name of ship)

I hereby give notice that the processes of loading or unloading or coaling have been completed ("for the time being) at the hatches named below, and that the hatches in question have been

† { left fenced or covered as required by Regulation 50
taken into use by you or on your behalf

Hatchway	Deck
.....
.....
.....
.....
.....
.....

Signature

Time

Date

* Delete if not required

† Delete whichever is not required

FORM II

Part I.—*Annual Inspection and quadriennial thorough Examination of Derricks and permanent attachments (including binnacle chains) to the Derricks, Masts and Decks, Regulation 27 (2).*

If all the derrick booms and above-named gear are inspected or thoroughly examined on the same date it will be sufficient to enter in col 1 "All derrick booms and above-named gear". If not, the parts, which have been inspected or thoroughly examined on the dates, stated must be clearly indicated

QUADRIENNIAL THOROUGH EXAMINATIONS

Situation and description of gear inspected or examined with distinguishing number or Mark (if any)	Number of certificate of test and Examination of competent person	I certify that on the date to which I have appended my signature, the gear shown in col 1 was thoroughly examined and no defects affecting its safe working condition were found other than those shown in col 3	Remarks (To be initialled and dated)
(1)	(2)	Date and Signature	Date and Signature
			(3)

"Thorough examination" means, a visual examination, supplemented if necessary by other means such as a hammer test, carried out as carefully as the conditions permit in order to arrive at a reliable conclusion as to the safety of the parts examined and if necessary for this purpose parts of the machines and gear must be dismantled

ANNUAL INSPECTIONS

I certify that on the date to which I have appended my signature, the gear shown in col. 1 was inspected and no defects affecting its safe working condition were found other than those shown in col 4	Remarks (To be initialled and dated)
Date and Signature	Date and Signature
Date and Signature	Date and Signature
	(4)

PART II.—*Annual thorough Examination of Cranes, Winches, Hoists and Accessory gear other than Derricks and permanent attachments thereto, Regulation 27(3)*

Col. 1 should show clearly the machines and gear which have been thoroughly examined. If (e.g.) all the winches (with their accessory gear) have been thoroughly examined, it will be sufficient to enter "All winches, blocks, shackles and other accessory gear."

"Thorough examination" means a visual examination, supplemented if necessary by other means such as a hammer test, carried out as carefully as the conditions permit in order to arrive at a reliable conclusion as to the safety of the parts examined, and if necessary for this purpose, parts of the machines and gear must be dismantled.

Situation and description of machinery and gear examined, with distinguishing number of mark (in any)	Number of certificate of test and examination	I certify that on the date to which I have appended my signature the machinery and gear shown in col 1 was thoroughly examined and no defects affecting its safe working condition were found other than those shown in col 3			Remarks (To be initialled and dated) (3)
(1)	(2)	Date and Signature	Date and Signature	Date and Signature	(3)

REGULATION 28

PART III.—*Annual thorough Examination of gear exempted from annealing, namely* —

- (1) Chains made of malleable cast iron,
- (3) Chains, rings, hooks, shackles and swivels made of steel
- (5) Rings, hooks, shackles and swivels permanently attached to pitched chains, pulley blocks or weighing machines.
- (7) Bordeaux connections.
- (2) Plate link chains,
- (4) Pitched chains,
- (6) Hooks and swivels having screw threaded parts or ball bearings or other case hardened parts,

“Through examination” means a visual examination, supplemented if necessary by other means carried out as carefully as the conditions permit in order to arrive at reliable conclusion as to the safety of the parts examined, and if necessary for this purpose, parts of the gear must be dismantled

Distinguishing number or mark	Description of gear thoroughly examined	Number of certificate of test and examination	I certify that on the date to which I have appended my signature, the gear described in cols 1 and 2 was thoroughly examined by a competent person and no defect, affecting its safe working condition were found other than those shown in col 4			REMARKS (To be initialled and dated)
(1)	(2)	(3)	Date and Signature	Date and Signature	Date and Signature	(4)

REGULATION 29 (2)

PART IV —*Annealing of Chains, Rings, Hooks, Shackles and Swivels*
(other than those exempted—SEE PART III)

if used with lifting machinery driven by power must be annealed once at least in every 6 months.

if used solely with lifting machinery worked by hand, must be annealed once at least in every 12 months

if used with lifting machinery driven by power must be annealed once at least in every 12 months.

if used solely with lifting machinery worked by hand, must be annealed once at least in every two years

Half inch and smaller chains, rings, hooks, shackles and swivels in general use

Other chains, rings, hooks, shackles and swivels in general use

NOTE.—It is recommended—though not required by the Regulations—that annealing should be carried out in a suitably constructed furnace heated to a temperature between 1,100 and 1,300 Fahrenheit or 600 and 700 Centigrade, for a period between 30 and 60 minutes.

Distinguishing number or mark	Description of gear annealed	Number of certificate of test and examination	I certify that on the date to which I have appended my signature the gear described in cols 1 and 2 was effectually annealed under the supervision of a competent person, that after being so annealed every article was carefully inspected and that no defect affecting its safe working condition were found other than those shown in col 4	REMARKS
(1)	(2)	(3)	Date and Signature Date and Signature Date and Signature	(To be initialled and dated) (4)

FORM III

Test Certificate No.

THE INDIAN DOCK LABOURERS REGULATIONS, 1948

REGULATION 27 (1)

*Certificate of test and examination of Winches, Derricks and
Accessory Gear, before being taken into use*

Situation and Description of Machinery and Gear with distinguishing number or mark (if any)	Angle to the horizontal of derrick boom while the load was applied	Proof load applied	Safe working load at the angle shown in col 2
(1)	(2)	(3)	(4)
	Degrees	Tons	Tons

I certify that on the day of 194 . . . , the above machinery together with its accessory gear was tested by a competent person in the manner set forth overleaf; that a careful examination of the said machinery and gear by a competent person after the test showed that it had withstood the proof load without injury or permanent deformation; and that the safe working load of the said machinery and gear is as shown in col. 4.

Signature Date

Qualification (See Note 3) {
.. .. .

NOTES

- Column 1 If the machinery is on a ship, the name of the ship must be stated. Sufficient particulars must be given to identify the gear, for example, in the case of a winch or derrick, the number of the hold, etc., should be shown.
- Column 2 As a rule, a derrick should be tested with the boom at the lowest position at which it is to be used.
- "Competent person" means.—
 - in the case of machinery or plant not carried on board a ship, any person appointed in that behalf by the Port Authority with the sanction of the Central Government,
 - in the case of machinery or plant carried on board a ship, an official of a workshop approved in that behalf by the Central Government, or, except for the purposes of Regulation 29 (2), a person nominated in that behalf by an authority approved by the Central Government for the purpose of nominating competent persons and includes in the case of machinery and plant carried on board a ship registered elsewhere than in the Provinces, any person who is recognised as a competent person for the purposes of the national regulations in force for the implementation of the Protection against Accidents (Dockers) Convention (Revised) 1932, adopted by the International Labour Conference.

FORM IV

Test Certificate No.

THE INDIAN DOCK LABOURERS REGULATIONS, 1948

REGULATION 27(1)

*Certificate of Test and Examination of Cranes or Hoists and their
Accessory Gear before being taken into use*

Situation and Description of Crane or Hoist with distin- guishing number or mark (if any) (1)	For jib cranes radius at which the proof load was applied (2)	Proof load applied (3)	Safe working load [for jib cranes at radius shown in col. (2) (4)
	Feet)	Tons	Tons

I certify that on the . . . day of . . . 194 . . .
the above machinery together with its accessory gear was tested
by a competent person in the manner set forth overleaf; that a careful
examination of the said machinery and gear by a competent person
after the test showed that it had withstood the proof load without
injury or permanent deformation; and that the safe working load
of the said machinery and gear is as shown in col. 4.

Signature Date

Qualification (See Note 3) {
.

NOTES

- Column 1 Sufficient particulars must be given to identify the crane or hoist. If on a ship, the name of the ship must be stated.
- Column 2. If the jib has a variable radius, proof loads must be applied at the maximum and minimum radii.
- "Competent person" means :—
 - (a) in the case of machinery or plant not carried on board a ship, any person appointed in that behalf by the Port Authority with the sanction of the Central Government;
 - (b) in the case of machinery or plant carried on board a ship, an official of a workshop approved in that behalf by the Central Government, or, except for the purposes of Regulation 29 (2), a person nominated in that behalf by an authority approved by the Central Government for the purpose of nominating . . . persons and includes in the case of machinery and plant carried on board a ship registered elsewhere than in the Provinces, any person who is recognised as a competent person for the purposes of the national regulations . . . for the implementation of the Protection against Accidents (Dockers' Convention (Revised) 1932, adopted by the International Labour Conference

FORM V

Test Certificate No . . .

THE INDIAN DOCK LABOURERS REGULATIONS, 1948

REGULATION 29 (1) AND (4)

Certificate of Test and Examination of Chains, Rings, Hooks, Shackles, Swivels and Pulley Blocks, before being taken into use

Distinguishing Number or Mark (1)	Description of Gear (2)	Number tested (3)	Date of test (4)	Proof load applied (5)	Safe working load (6)
				Tons	Tons

(7) Was the gear examined by a competent person after the application of the proof load and found to have withstood the load without deformation and to be free from cracks, flaws or other defects? }

(8) Name and address of makers or suppliers }

I certify that the above particulars are correct.

Signature Date

Qualification (See Note) {
 {

NOTES

"Competent person" means —

- (a) in the case of machinery or plant not carried on board a ship, any person appointed in that behalf by the Port Authority with the sanction of the Central Government,
- (b) in the case of machinery or plant carried on board a ship, an official of a workshop approved in that behalf by the Central Government, or, except for the purposes of Regulation 29 (2), a person nominated in that behalf by an authority approved by the Central Government for the purpose of nominating competent persons and includes in the case of machinery and plant carried on board a ship registered elsewhere than in the Provinces, any person who is recognised as a competent person for the purposes of the national regulations in force for the implementation of the Protection against Accidents (Deckers) Convention (Revised) 1932, adopted by the International Labour Conference.

FORM VI

Test Certificate No

THE INDIAN DOCK LABOURERS REGULATIONS, 1948

REGULATION 30 (1) (b)

*Certificate of Test and Examination of Wire Rope
before being taken into use*

-
- (1) Name and address of the maker or supplier of the rope.
 - (2) (a) Circumference of rope in inches
(b) Number of strands
(c) Number of wires per strand ..
(d) Lay
 - (3) Quality of Wire (e g., Best Plough Steel).
 - (4) (a) Date of test of sample of the rope.
(b) Load at which this sample broke.
(c) Safe working load, subject to any stated qualifying conditions, such as minimum pulley diameter, direct tensile load, etc

I certify that the above particulars are correct.

Signature Date

Qualification (See Note).

NOTES

“Competent person” means :—

- (a) in the case of machinery or plant not carried on board a ship, any person appointed in that behalf by the Port Authority with the sanction of the Central Government;
- (b) in the case of machinery or plant carried on board a ship, an official of a workshop approved in that behalf by the Central Government, or, except for the purposes of Regulation 29 (2), a person nominated in that behalf by an authority approved by the Central Government for the purpose of nominating competent persons and includes in the case of machinery and plant carried on board a ship registered elsewhere than in the Provinces, any person who is recognised as a competent person for the purposes of the national regulations in force for the implementation of the Protection against Accidents (Dockers) Convention (Revised) 1932, adopted by the International Labour Conference.

FORM VII

Annealing Certificate No.. . .

THE INDIAN DOCK LABOURERS REGULATIONS, 1948

REGULATION 29 (2)

*Certificate of Annealing of Chains, Rings, Hooks, Shackles
and Swivels*

Distin- guishing Number or Mark	Description of Gear	Number of certificate of test and examina- tion	Number annealed	Date of annealing	Defects found at careful inspection after annealing
1	2	3	4	5	6

I certify that on the date shown in col. 5, the gear described in cols. 1 to 4 was effectually annealed under my supervision, that after being so annealed every article was carefully inspected ; and that no defects affecting its safe working condition were found other than those indicated in col. 6.

Signature. Date.. . . .

Qualification [See Note (c)]

NOTES

- (a) The requirement as to annealing and the competency of the person under whose supervision the annealing is carried out, are set forth overleaf.
- (b) It is recommended—though not required by the Regulations—that annealing should be carried out in a suitably constructed furnace, heated to a temperature between 1,100° and 1,300° Fahrenheit or 600° and 700° Centigrade, for a period between 30 and 60 minutes
- (c) “Competent person” means :—
 - (a) in the case of machinery or plant not carried on board a ship, any person appointed in that behalf by the Port Authority with the sanction of the Central Government;
 - (b) in the case of machinery or plant carried on board a ship, an official of a workshop approved in that behalf by the Central Government, or, except for the purposes of Regulation 29 (2), a person nominated in that behalf by an authority approved by the Central Government for the purpose of nominating competent persons, and includes in the case of machinery and plant carried on board a ship registered elsewhere than in the Provinces, any person who is recognized as a competent person for the purposes of the national regulations in force for the implementation of the Protection against Accidents (Dockers) Convention (Revised) 1932, adopted by the International Labour Conference.

FORM VIII

Certificate No

THE INDIAN DOCK LABOURERS REGULATIONS, 1948

REGULATION 28

*Certificate of Annual Thorough Examination of Gear exempted from
Annealing, namely —*

- (1) Chains made of malleable cast iron ,
- (2) Plate link chains ;
- (3) Chains, rings, hooks, shackles and swivels made of steel ,
- (4) Pitched chains ,
- (5) Rings, hooks, shackles and swivels permanently attached to pitched chains, pulley blocks or weighing machines ,
- (6) Hooks and swivels having screw-threaded parts or ball bearings or other case-hardened parts ;
- (7) Bordeaux connections.

Distinguishing Number or Mark 1	Description of Gear thoroughly examined (See paragraph 2 overleaf) 2	Number of certificate of test and examination 3	Remarks 4
— — — — —	— — — — —	— — — — —	— — — — —

I certify that on the . . . day of . . . 194 , the above gear was thoroughly examined by a competent person and that no defects affecting its safe working condition were found other than those indicated in col. 4.

Signature..... Date

Qualification of competent person (See Note) {

NOTES

“Competent person” means —

- (a) in the case of machinery or plant not carried on board a ship, any person appointed in that behalf by the Port Authority with the sanction of the Central Government;
- (b) in the case of machinery or plant carried on board a ship, an official of a workshop approved in that behalf by the Central Government, or, except for the purposes of Regulation 29 (2), a person nominated in that behalf by an authority approved by the Central Government for the purpose of nominating competent persons and includes in the case of machinery and plant carried on board a ship registered elsewhere than in the Provinces, any person who is recognised as a competent person for the purposes of the national regulations in force for the implementation of the Protection against Accidents (Dockers) Convention (Revised) 1932, adopted by the International Labour Conference.

FORM IX

THE INDIAN DOCK LABOURERS ACT, 1934

INSPECTOR'S NOTICE ON INSPECTION OF PREMISES OR SHIPS

Inspector's Notice to the Person having the General Management and Control of the Premises and the Owner, Master, Officer-in-charge or Agents of the Ship as the case may be

Name of premises or ship	Where situated or lying	Port of Registry of ship	Official Number (if any) of ship

Sir,

An inspection of the above-named premises/vessel having been made this day, I have to inform you that the requirements mentioned below must be complied with within..... days of the receipt of this notice.

On hearing from you that the alterations or additions required have been made, the premises/vessel will again be visited with a view to the inspection being completed.

this.....day of.....19 .

Date.....

Inspector under the Indian
Dock Labourers Act, 1934.

.....

.....

.....

REQUIREMENTS

When the requirements notified above have been carried out, the owner, master, officer-in-charge or agents of the ship or the person in general management and control of the premises should fill in the following form and send it to the Inspector

Sir,

The requirements notified by you have been effectively fulfilled. The premises/vessel will be ready for inspection on the date and place named below :—

Date of Inspection	Place at which the ship will be lying

Dated at .

this day of 19

Owner, Master, Officer-in-charge or
Agents of the ship or the person in
general management and control of
the premises.

To

The Inspector under the Indian Dock Labourers Act, 1934

DOCK WORKERS (REGULATION OF EMPLOYMENT) ACT, 1948 (IX OF 1948)

Arrangements of Sections

1. Short title and extent.
2. Definitions.
3. Scheme for ensuring regular employment of workers.
4. Making, variation and revocation of Schemes.
5. Advisory Committees.
6. Inspectors.
7. Cognizance of offences.

DOCK WORKERS (REGULATION OF EMPLOYMENT) ACT,
1948 (IX OF 1948)¹

An Act to provide for regulating the employment of dock workers.

Whereas it is expedient to provide for regulating the employment of dock workers ;

It is hereby enacted as follows —

1. Short title and extent.—(1) This Act may be called the Dock Workers (Regulation of Employment) Act, 1948

(2) It extends to all the Provinces of India

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) “cargo” includes anything carried or to be carried in a ship or other vessel ;

(b) “Dock worker” means a person employed or to be employed in, or in the vicinity of, any port on work in connection with the loading, unloading, movement or storage of cargoes, or work in connection with the preparation of ships or other vessels for the receipt or discharge of cargoes or leaving port ;

(c) “employer”, in relation to a dock worker, means the person by whom he is employed or to be employed as aforesaid ;

(d) “Government” means, in relation to any major port, the Central Government and, in relation to any other port, the Provincial Government ;

(e) “scheme” means a scheme made under this Act.

3. Scheme for ensuring regular employment of workers.—

(1) Provision may be made by a scheme for the registration of dock workers with a view to ensuring greater regularity of employment and for regulating the employment of dock workers, whether registered or not, in a port.

(2) In particular, a scheme may provide—

(a) for the application of the scheme to such classes of dock workers and employers as may be specified therein ;

(b) for defining the obligations of dock workers and employers subject to the fulfilment of which the scheme may

¹ For Statement of Objects and Reasons, see *Gazette of India*, Part V, dated 22nd November, 1947 and for the Report of the Select Committee, see *Ibid*, dated 7th February, 1948

apply to them and the circumstances in which the scheme shall cease to apply to any dock workers or employers ,

- (c) for regulating the recruitment and entry into the scheme of dock workers, and their registration, including the maintenance of registers, the removal, either temporarily or permanently, of names from the registers and the imposition of fees for registration ;
- (d) for regulating the employment of dock workers, whether registered or not, and the terms and conditions of such employment, including rates of remuneration, hours of work and conditions as to holidays and pay in respect thereof ;
- (e) for securing that, in respect of periods during which employment, or full employment, is not available for dock workers to whom the scheme applies and who are available for work, such workers will, subject to the conditions of the scheme, receive a minimum pay ;
- (f) for prohibiting, restricting or otherwise controlling the employment of dock workers to whom the scheme does not apply and the employment of dock workers by employers to whom the scheme does not apply ;
- (g) for the training and welfare of dock workers, in so far as satisfactory provision therefor does not exist apart from the scheme ;
- (h) for health and safety measures in places where dock workers are employed, in so far as satisfactory provision therefor does not exist apart from the scheme ,
- (i) for the manner in which, and the persons by whom, the cost of operating the scheme is to be defrayed ;
- ¹[(j) for constituting, whether as a body corporate or otherwise, the authority to be responsible for the administration of the scheme] ,
- (k) for such incidental and supplementary matters as may be necessary or expedient for the purposes of the scheme.

(3) A scheme may further provide that a contravention of any provision thereof shall be punishable with imprisonment for such term as may be specified but in no case exceeding three months in

¹ The new Sub-clause (j) was substituted by Section 2 of the Dock Workers (Regulation of Employment) Amendment Act 1949 (XXIX of 1949)

respect of a first contravention or six months in respect of any subsequent contravention, or with fine which may extend to such amount as may be specified but in no case exceeding five hundred rupees in respect of a first contravention or one thousand rupees in respect of any subsequent contravention, or with both imprisonment and fine as aforesaid.

4. Making, variation and revocation of schemes.—(1) The Government may, by notification in the official Gazette and subject to the condition of previous publication, make one or more schemes for a port or group of ports, and may in the like manner and subject to the like condition add to, amend, vary or revoke any scheme made by it.

(2) The provisions of section 23 of the General Clauses Act, 1897 (X of 1897) shall apply to the exercise of a power given by sub-section (1) as they apply to the exercise of a power given by a Central Act to make rules subject to the condition of previous publication

(3) The Government may direct the port authority of any port to prepare, in accordance with such instructions as may from time to time be given to it, one or more draft schemes for the port, and the port authority shall comply with such direction.

5. Advisory Committees.—(1) The Government may, or if it decides to make any scheme under section 4, shall, constitute an Advisory Committee, to advise upon such matters arising out of the administration of this Act or any scheme made thereunder as the Government may refer to it for advice.

(2) The members of the Advisory Committee shall be appointed by the Government, and shall be of such number (not exceeding fifteen) and chosen in such manner as may be prescribed by rules made under sub-section (5):

Provided that the Advisory Committee shall include an equal number of members representing—

- (i) the Government,
- (ii) the dock workers,
- (iii) the employers of dock workers.

(3) The Chairman of the Advisory Committee shall be one of the members appointed to represent the Government, nominated in this behalf by the Government.

(4) The Government shall publish in the official Gazette the names of all members of the Advisory Committee.

(5) The Government may, by notification in the official Gazette, make rules to provide for—

- (a) the composition of the Advisory Committee ,
- (b) the manner in which its members shall be chosen ,
- (c) the term of office of its members ;
- (d) the allowances, if any, payable to the members of the Committee ;
- (e) the manner in which the Committee shall conduct its business, including the number of members to be present at a meeting thereof in order to constitute a quorum.

6. Inspectors.—(1) The Government may, by notification in the official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act at such ports as may be specified in the notification.

(2) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code, 1860 (XLV of 1860)

(3) An Inspector may, at any port for which he is appointed,—

- (a) enter, with such assistance (if any) as he thinks fit, any premises or vessel where dock workers are employed ,
- (b) require any authority or person to produce any register, muster-roll or other document relating to the employment of dock workers, and examine such document ,
- (c) take on the spot or otherwise the evidence of any person for the purpose of ascertaining whether the provisions of any scheme made for the port are, or have been, complied with

(4) The Government may, by notification in the official Gazette, prescribe the manner in which and the persons by whom complaints regarding contravention of any provision of a scheme may be made to an Inspector and the duties of the Inspector in relation to such complaints.

7. Cognizance of offences.—(1) No Court shall take cognizance of any offence made punishable by a scheme or of any abetment thereof, except on a report in writing of the facts constituting such offence or abetment made by an Inspector or by a person specially authorised in this behalf by the Government.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), an offence made punishable by a scheme or an abetment thereof shall be triable only by a Presidency Magistrate or a Magistrate of the first class.

DOCK WORKERS (ADVISORY COMMITTEE) RULES, 1949

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DOCK WORKERS (ADVISORY COMMITTEE) RULES, 1949¹

In exercise of the powers conferred by sub-section (5) of section 5 of the Dock Workers (Regulation of Employment) Act, 1948 (IX of 1948), the Central Government is pleased to make the following rules, namely :—

1. Short title and extent.—(1) These Rules may be called the Dock Workers (Advisory Committee) Rules, 1949.

(2) They extend to all the major ports in India.

2. Definitions.—In these rules, unless there is anything repugnant in the subject or context :—

(a) ‘Act’ means the Dock Workers (Regulation of Employment) Act, 1948 (IX of 1948).

(b) “Chairman” means the Chairman of the Dock Workers Advisory Committee.

(c) “Committee” means the Dock Workers Advisory Committee.

(d) “Member” means a member of the Dock Workers Advisory Committee.

¹ These Rules were published under the Ministry of Labour Notification N. I.R. 21 (22), dated 1st June, 1949.

COMPOSITION, FUNCTIONS, ETC , OF THE COMMITTEE

3. Constitution.—The Committee shall consist of fifteen members to be appointed by the Central Government, namely :—

- (1) five members representing the Central Government, three of whom shall be appointed on the recommendation, respectively, of the Provincial Governments of Bombay, Madras and West Bengal and two shall be appointed on the recommendation, respectively, of the Ministry of Labour and the Ministry of Transport of the Central Government ,
- (2) five members representing the employers of dock workers who shall be appointed on the recommendation, respectively, of the Bombay Port Trust, the Madras Port Trust, the Port Commissioners of Calcutta, the Bombay Stevedore Association and the Licensed Stevedores, Calcutta Port , and
- (3) five members representing the dock workers who shall be appointed in consultation with such unions of dock-workers as the Central Government may consider appropriate.

4. Functions.—The Committee shall advise the Central Government upon such matters arising out of the administration of the Act or any scheme made thereunder as the Central Government may refer to it for advice.

5. Term of office of members.—A member shall, unless he resigns his office or dies at an earlier date, hold office for a period of three years from the date of the notification appointing him as a member and shall be eligible for reappointment .

Provided that an outgoing member shall continue in office until the appointment of his successor is notified in the official Gazette.

6. Casual vacancy.—A member appointed to fill a casual vacancy shall hold office for as long as the member whose place he fills would have been entitled to hold office if the vacancy had not occurred.

7. Resignation of members—(1) A member, other than the Chairman may resign his office by a letter in writing addressed to the Chairman.

(2) The Chairman may resign his office by a letter addressed to the Central Government.

(3) If a member proposes to proceed out of India, he shall, before doing so, intimate to the Chairman, the anticipated date of his departure from and of his return to India and, if he intends to be absent from India for a period exceeding six months, he shall tender his resignation

(4) A member shall be deemed to have vacated his office :—

- (a) if he proceeds out of India without complying with the provisions of sub-rule (3) ;
- (b) if he becomes an insolvent ;
- (c) if he is convicted of any offence which, in the opinion of the Central Government, involves moral turpitude ,
- (d) if he is absent from three consecutive meetings of the Committee without leave of absence from the Chairman ,
- (e) if, in the opinion of the Central Government, a member who was appointed to represent dock workers or their employers ceases to be representative of dock workers or their employers, as the case may be ; or
- (f) if, in the opinion of the Central Government, it is undesirable that he should continue to be a member

8. Headquarters—The headquarters of the Committee shall be at such place as may be fixed by the Central Government

CONDUCT OF BUSINESS OF THE COMMITTEE

9. Meetings—(1) Every matter referred to the Committee for advice shall be considered either at a meeting of the Committee, or, if the Chairman so directs, by circulation of the necessary papers for opinion to every member who is present in India at the time.

Provided that any member may request that the matter be considered at a meeting of the Committee and thereupon the Chairman may, and if the request is made by three or more members shall, direct that it be so considered.

(2) The Committee shall meet at such places and times as may be appointed by the Chairman.

(3) The Chairman shall preside over every meeting of the Committee at which he is present and in his absence the members present shall elect one of their number to preside over the meeting and the member so elected shall at that meeting exercise all the powers of the Chairman.

(4) No business shall be transacted at a meeting of the Committee unless at least three members are present :

Provided that if at any meeting less than three members are present, the Chairman may adjourn the meeting to a date not less than seven days later, informing the members present and notifying other members that he proposes to dispose of the business at the adjourned meeting whether there is the prescribed quorum or not and it shall thereupon be lawful for him to dispose of the business at the adjourned meeting irrespective of the number of members attending.

(5) Every question at a meeting of the Committee shall be decided by a majority of votes of the members present and voting, provided that a member shall in all cases have the right to have his note of dissent recorded.

(6) Every question referred to the members for opinion under sub-rule (1) shall, unless the Chairman in pursuance of the proviso to that sub-rule reserves it for consideration at a meeting, be decided in accordance with the opinion of the majority of the members recording opinion within the time allowed for it.

(7) In the case of an equal division of votes or opinions, as the case may be, the Chairman shall have a second or casting vote or opinion.

10. Notice of meetings and list of business.—(1) Notice shall be given to every member present in India of the time and place fixed for each meeting at least fifteen days before the date of such meeting and each member shall be furnished with a list of business to be disposed of at the meeting :

Provided that when an emergent meeting is called by the Chairman, it shall not be necessary to give more than five days' notice.

(2) No business which is not on the list of business shall be considered at a meeting without the permission of the Chairman.

11. Minutes of meetings.—The minutes of each meeting of the Committee shall be circulated to all members present in India as soon as possible after the meeting, shall be read out and confirmed at the next meeting of the Committee, shall be signed by the Chairman or the member presiding, as the case may be, and shall thereafter be recorded in a minute book.

12. Power to invite experts to meetings.—The Chairman may invite one or more experts to be present at any meeting and to participate in the discussion of any technical matter, but such experts shall not be entitled to vote.

ALLOWANCES OF MEMBERS

13. Every non-official member and any expert invited to attend a meeting of the Committee under Rule 12, shall be entitled to the following allowances :—

- (1) if he is usually resident at the place of meeting, the actual cost of conveyance hire, subject to maximum of Rs. 10 per day ; or
- (2) if he is not usually resident at the place of meeting and he certifies in writing that he has not drawn any travelling or daily allowance in respect of the journey and the halts from any other source :—
 - (i) *Travelling allowance*—
 - (a) in respect of journeys by air—one and one-fourth the actual fare paid ;
 - (b) in respect of journeys by train—one and a half first class fare ;
 - (c) in respect of journeys by road, etc.—the rates of mileage allowance admissible to Central Government Officers of the First Grade
 - (ii) *Daily allowance*—
 - (a) At the rates admissible to Central Government Officers of the First Grade .
 - (b) Daily allowance will also be admissible in respect of one day previous to the commencement of the meeting if the member arrives at the place of the meeting in the forenoon of that day and one day after its termination if he leaves the place of meeting in the afternoon of that day.

14. The Chairman shall be the Controlling Officer in respect of the bills for the allowances admissible under Rule 13.

INDIAN LABOUR CODE

PART II

PROTECTION OF WAGES LEGISLATION

Protection of Wages.

A very important branch of labour legislation is that of protection of wages and the most important measure in this connection is the payment of wages legislation. Industrial workers have often to suffer from withholding or delays in the payment of wages and the deduction from the wages by way of fines etc. Enquiries into the matter by the Government of India in 1926 revealed the existence of these evils and legislative proposals for their control was formulated in 1928 but these materials were placed before the Royal Commission on Labour which made several recommendations for legislative regulation in 1931, on the basis of which the Government of India passed the Payment of Wages Act in 1936 (IV of 1936).

Main Provisions.

The Payment of Wages Act 1936 which aims at securing prompt payment of wages and regulating deductions therefrom was brought into force on the 28th March, 1937.

1. It prescribes deductions from wages which are permissible and regulates fining of workers and method of recovering fines. The Act applies only to the payment of wages to persons receiving less than Rs. 200/- per month and employed in factories and upon railways. The Provincial Government may extend the provisions of the Act to other industrial establishments.

2. No wage period shall exceed one month and all wages should be paid in cash and only on working days. Factories, railways and other industrial establishments employing less than 1,000 workers are required to pay the workers' wages within a period of 7 days after the end of wage period and those employing more than 1,000 workers to pay within 10 days. Payments should always be made within 2 days where an employee is discharged.

3. No deduction from wages can be made except those permissible under the Act such as fines, deduction for absence from work, recovery in advances, house rent, income-tax payment, provident fund contribution, court dues, co-operative societies' dues.

4. The fining of children is prohibited. Employers are required to post notices, specifying the acts or omissions in respect of which fines are imposed. Fines for acts or omissions not so specified are illegal. Fines can not be recovered by instalments or after 60 days from the day of fining. The maximum amount deducted as fines is not to exceed, in any month, half an anna in the rupee of the workers' earnings. Collections from fines are to be utilised for employees' benefit.

5. The Act embodies punishment for contravention of the provisions and the maximum penalty is Rs 500/-. All claims arising out of deductions from or delay in payment of wages shall be dealt with by special Authority appointed by the Provincial Government.

Payment of Wages (Amendment) Act, 1937 (XXII of 1937).

The Act was amended in 1937 in order to empower the employers to withhold wages in case of a stay-in-strike.

Payment of Wages (Amendment) Ordinance, 1940 (Ord. III of 1940).

During the war, the Act was amended empowering an employer to make deductions from wages, on written authorisation of the employee, for investment in any War Savings Scheme approved by the Provincial Government.

Enforcement and Administration.

The enforcement of the Act is entrusted to the Inspector of Factories appointed under the Factories Act. Provincial Governments have also framed Rules for the purpose. In the case of persons employed on railways (other than in a railway factory), the Chief Commissioner of Labour (Central) is responsible for its administration.

Five-Year Labour Programme.

The Labour Investigation Committee pointed out several defects of the Act, (1) it does not cover workers in mines and plantations, (2) does not compel the employer to utilise the fines fund within a prescribed period for the benefit of the workers, (3) does not clearly provide for penalising the employer for failure to produce Registers at the time of inspection. The Committee also reported about the practice of making unauthorised deduction from wages for charity, bad work etc. and punishing the workers not by fines but by suspending or

by refusing work to them for a number of days or by reducing their pay. The contract labour and smaller class of establishments are not complying with the provisions and this is to a certain extent due to the inadequacy of inspection staff.

The Government of India in their Five year Labour Programme proposed to revise the Act in the light of comments of the Rege Committee and the experience of its working, with a view to (1) extend the scope of the Act, (2) rectify the present defects, (3) get over the difficulties found in the working of the Act and (4) provide for proper utilisation of Fine Funds.

Extention of Act to other Industries.

The Government of India have extended the Act to all classes of persons employed in Coal mines from 15th January, 1948 and have decided to extend it to Mica mines. Madras, Assam and West Bengal Governments have brought the plantation workers within the purview of the Act from February 1947 and December 1947 and May 1949 respectively. The Bihar Government has extended the provisions of the Act to mica and shellac factories. The provisions of the Act was also extended to tramways and motor omnibus services by the Governments of Madras in February 1947 and West Bengal in September 1948 and to motor transport by the Governments of Orissa in February 1948 and Bihar in March 1948.

PAYMENT OF WAGES ACT, 1936 (IV OF 1936)

Arrangement of Sections

1. Short title, extent, commencement and application.
2. Definitions.
3. Responsibility for payment of wages.
4. Fixation of wage-periods.
5. Time of payment of wages.
6. Wages to be paid in current coin or currency notes.
7. Deductions which may be made from wages.
8. Fines.
9. Deductions for absence from duty.
10. Deductions for damage or loss.
11. Deductions for services rendered.
12. Deductions for recovery of advances.
13. Deductions for payments to co-operative societies and insurance schemes.

14. Inspectors.
15. Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims.
16. Single application in respect of claims from unpaid group.
17. Appeal.
18. Powers of authorities appointed under section 15.
19. Power to recover from employer in certain cases.
20. Penalty for offences under the Act.
21. Procedure in trial of offences.
22. Bar of suits
23. Contracting out.
24. Application of Act to Federal Railways, mines and oilfields.
25. Display by notice of Abstracts of the Act.
26. Rule-making power.

PAYMENT OF WAGES ACT, 1936 (IV OF 1936)¹

An Act to regulate the payment of wages to certain classes of persons employed in industry

Whereas it is expedient to regulate the payment of wages to certain classes of persons employed in industry ; It is hereby enacted as follows —

1. Short title, extent, commencement and application.—

(1) This Act may be called the Payment of Wages Act, 1936

(2) It extends to ²[all the Provinces of India] including the Sonthal Parganas.

(3) It shall come into force on such date³ as the ⁴[Central Government] may, by notification in the ⁵[Official Gazette] appoint.

(4) It applies in the first instance to the payment of wages to persons employed in any factory and to persons employed (otherwise than in a factory) upon any railway by a railway administration, or,

¹ For Statement of Objects and Reasons, see Gazette of India, 1935, Pt. V, p. 20; for Report of Select Committee, see *ibid*, p. 77

² These words were substituted for the words "the whole of British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

³ The words "British Baluchistan" was repealed, *ibid*.

⁴ This Act was brought into force with effect from the 28th March, 1937, see Gazette of India, 1937, Pt. I, p. 626

⁵ These words were substituted for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

⁶ These words were substituted for the words "Gazette of India", *ibid*.

either directly or through a sub-contractor, by a person fulfilling a contract with a railway administration.

(5) The ¹[Provincial Government] may, after giving three months' notice of its intention of so doing, by notification in the ²[official Gazette] extend the provisions of the Act or any of them to the payment of wages to any class of persons employed in any industrial establishment or in any class or group of industrial establishments

(6) Nothing in this Act shall apply to wages payable in respect of a wage-period which, over such wage-period, average two hundred rupees a month or more.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

- (i) "factory" means a factory as defined in clause (i) of section 2 of the Factories Act, 1934 (XXV of 1934) ;
- (ii) "industrial establishment" means any—
 - (a) tramway or motor omnibus service ;
 - (b) dock, wharf or jetty ,
 - (c) inland steam-vessel ;
 - (d) mine, quarry or oil-field ,
 - (e) plantation ;
 - (f) workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their use, transport or sale ;
- (iii) "plantation" means any estate which is maintained for the purpose of growing cinchona, rubber, coffee or tea, and on which twenty-five or more persons are employed for that purpose ;
- (iv) "prescribed" means prescribed by rules made under this Act ;
- (v) "railway administration" has the meaning assigned to it in clause (6) of section 3 of the Indian Railways Act, 1890 (IX of 1890) ; and
- (vi) "wages" means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were

¹ These words were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "local Official Gazette", *ibid.*

fulfilled, be payable, whether conditionally upon the regular attendance, good work or conduct or other behaviour of the person employed, or otherwise, to a person employed in respect of his employment or of work done in such employment, and includes any bonus or other additional remuneration of the nature aforesaid which would be so payable and any sum payable to such person by reason of the termination of his employment, but does not include—

- (a) the value of any house-accommodation, supply of light, water, medical attendance, or other amenity, or of any service excluded by general or special order of the¹ * * *²[Provincial Government] ;
- (b) any contribution paid by the employer to any pension fund or provident fund ;
- (c) any travelling allowance or the value of any travelling concession ;
- (d) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment ; or
- (e) any gratuity payable on discharge

3. Responsibility for payment of wages.—Every employer shall be responsible for the payment to persons employed by him of all wages required to be paid under this Act :

Provided that, in the case of persons employed (otherwise than by a contractor)—

- (a) in factories, if a person has been named as the manager of the factory under clause (e) of sub-section (1) of section 9 of the Factories Act, 1934 (XXV of 1934),
- (b) in industrial establishments, if there is a person responsible to the employer for the supervision and control of the industrial establishment,
- (c) upon railways (otherwise than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned,

¹ The words "Governor General in Council or" were omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Local Government", *ibid.*

the person so named, the person so responsible to the employer, or the person so nominated, as the case may be, shall be responsible for such payment.

4. Fixation of wage-periods.—(1) Every person responsible for the payment of wages under section 3 shall fix periods (in this Act referred to as wage-periods) in respect of which such wages shall be payable.

(2) No wage-period shall exceed one month.

5. Time of payment of wages.—(1) The wages of every person employed upon or in—

(a) any railway, factory or industrial establishment upon or in which less than one thousand persons are employed, shall be paid before the expiry of the seventh day,

(b) any other railway, factory or industrial establishment, shall be paid before the expiry of the tenth day,

after the last day of the wage-period in respect of which the wages are payable

(2) Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid before the expiry of the second working day from the day on which his employment is terminated.

(3) The ¹[Provincial Government] may, by general or special order, exempt, to such extent and subject to such conditions as may be specified in the order, the person responsible for the payment of wages to persons employed upon any railway (otherwise than in a factory) from the operation of this section in respect of the wages of any such persons or class of such persons.

(4) All payments of wages shall be made on a working day.

6. Wages to be paid in current coin or currency notes.—All wages shall be paid in current coin or currency notes or in both.

7. Deductions which may be made from wages.—(1) Notwithstanding the provisions of sub-section (2) of section 47 of the Indian Railways Act, 1890 (IX of 1890), the wages of an employed person shall be paid to him without deductions of any kind except those authorized by or under this Act.

Explanation.—Every payment made by the employed person to the employer or his agent shall, for the purposes of this Act, be deemed to be a deduction from wages.

¹ These words were substituted for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

(2) Deductions from the wages of an employed person shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely:—

- (a) fines ;
- (b) deductions for absence from duty ;
- (c) deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default ;
- (d) deductions for house-accommodation supplied by the employer ;
- (e) deductions for such amenities and services supplied by the employer as the ¹ * ² [Provincial Government] may, by general or special order, authorize ;

Explanation.—The word ‘services’ in this sub-clause does not include the supply of tools and raw materials required for the purposes of employment ;

- (f) deductions for recovery of advances or for adjustment of over-payments of wages ,
- (g) deductions of income-tax payable by the employed person ,
- (h) deductions required to be made by order of a Court or other authority competent to make such order ;
- (i) deductions for subscriptions to, and for repayment of advances from, any provident fund to which the Provident Funds Act, 1925, (XIX of 1925), applies or any recognized provident fund as defined in section 58A of the Indian Income-tax Act, 1922 (XI of 1922), or any provident fund approved in this behalf by the ² [Provincial Government] during the continuance of such approval ; ³.
- (j) deductions for payments to co-operative societies approved by the ² [Provincial Government] or to a scheme of insurance maintained by the Indian Post Office ; ⁴ [and]
- ⁴ [(k) deductions made with the written authorisation of the

¹ The words “Governor-General in Council or” were repealed by the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words “Local Government”, *ibid*

³ The word “and” was repealed by Sec. 2 of the Payment of Wages (Amendment) Ordinance, 1940 (III of 1940).

⁴ The word “and and clause “K” added, *ibid*.

employed person in furtherance of any War Savings Scheme, approved by the Provincial Government for the purchase of securities of the Government of India or the Government of the United Kingdom]

8. Fines.—(1) No fine shall be imposed on any employed person save in respect of such acts and omissions on his part as the employer, with the previous approval of the ¹[Provincial Government] or of the prescribed authority, may have specified by notice under subsection (2).

(2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on or in the case of persons employed upon a railway (otherwise than in a factory), at the prescribed place or places.

(3) No fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.

(4) The total amount of fine which may be imposed in any one wage-period on any employed person shall not exceed an amount equal to half an anna in the rupee of the wages payable to him in respect of that wage-period.

(5) No fine shall be imposed on any employed person who is under the age of fifteen years.

(6) No fine imposed on any employed person shall be recovered from him by instalments or after the expiry of sixty days from the day on which it was imposed.

(7) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

(8) All fines and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed: and all such realisations shall be applied only to such purposes beneficial to the person employed in the factory or establishment as are approved by the prescribed authority.

Explanation.—When the persons employed upon or in any railway, factory, or industrial establishment are part only of a staff employed under the same management, all such realisations may be credited to a common fund maintained for the staff as a whole,

¹ These words were substituted for the words "Local Government", *ibid.*

provided that the fund shall be applied only to such purposes as are approved by the prescribed authority.

9. Deductions for absence from duty.—(1) Deductions may be made under clause (b) of sub-section (2) of section 7 only on account of the absence of an employed person from the place or places where, by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work.

(2) The amount of such deduction shall in no case bear to the wages payable to the employed person in respect of the wage-period for which the deduction is made a larger proportion than the period for which he was absent bears to the total period, within such wage-period, during which by the terms of his employment, he was required to work

Provided that, subject to any rules made in this behalf by the ¹[Provincial Government], if ten or more employed persons acting in concert absent themselves without due notice (that is to say without giving the notice which is required under the terms of their contracts of employment) and without reasonable cause, such deduction from any such person may include such amount not exceeding his wages for eight days as may by any such terms be due to the employer in lieu of due notice.

²[*Explanation*—For the purposes of this section an employed person shall be deemed to be absent from the place where he is required to work, if, although present in such place, he refuses, in pursuance of a stay-in-strike or for any other cause which is not reasonable in the circumstances, to carry out his work.]

10. Deductions for damage or loss.—(1) A deduction under clause (c) of sub-section (2) of section 7 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the employed person and shall not be made until the employed person has been given an opportunity of showing cause against the deduction, or otherwise than in accordance with such procedure as may be prescribed for the making of such deductions.

(2) All such deductions and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed.

¹ These words were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

² This explanation was added by s. 2 of the Payment of Wages (Amendment) Act, 1937 (XXII of 1937).

11. Deductions for services rendered.—A deduction under clause (d) or clause (e) of sub-section (2) of section 7 shall not be made from the wages of an employed person unless the house-accommodation, amenity or service has been accepted by him as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house-accommodation, amenity or service supplied and in the case of a deduction under the said clause (e), shall be subject to such conditions as¹ the²[Provincial Government] may impose.

12. Deductions for recovery of advances.—Deductions under clause (f) of sub-section (2) of section 7 shall be subject to the following conditions, namely:—

- (a) recovery of an advance of money given before employment began shall be made from the first payment of wages in respect of a complete wage-period, but no recovery shall be made of such advances given for travelling expenses;
- (b) recovery of advances of wages not already earned shall be subject to any rules made by the³[Provincial Government] regulating the extent to which such advances may be given and the instalments by which they may be recovered.

13. Deductions for payments to co-operative societies and insurance schemes.—Deductions under clause (j)⁴[and clause (k)] of sub-section (2) of section 7 shall be subject to such conditions as the⁵[Provincial Government] may impose.

14. Inspectors.—(1) An Inspector of Factories appointed under sub-section (1) of section 10 of the Factories Act, 1934 (XXV of 1934), shall be an Inspector for the purposes of this Act in respect of all factories within the local limits assigned to him.

(2) The⁶[Provincial Government] may appoint Inspectors for the purposes of this Act in respect of all persons employed upon a railway (otherwise than in a factory) to whom this Act applies.

(3) The⁷[Provincial Government] may, by notification in the⁸[official Gazette], appoint such other persons as it thinks fit to be

¹ The words "Governor-General in Council or" were omitted by the Government of India (Adaptation of Indian Laws) Order, 1937

² These words were substituted for the words "Local Government", *ibid.*

³ These words, brackets and letter were inserted by s. 3 of the Payment of Wages (Amendment) Ordinance, 1940 (III of 1940)

⁴ These words were substituted for the words the "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵ These words were substituted for the words "local official Gazette", *ibid.*

Inspectors for the purposes of this Act, and may define the local limits within which and the class of factories and industrial establishments in respect of which they shall exercise their functions

(4) An Inspector may, at all reasonable hours, enter on any premises, and make such examination of any register or document relating to the calculation or payment of wages and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection as he may deem necessary for carrying out the purposes of this Act

(5) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860).

15. Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims.—

(1) The ¹[Provincial Government] may, by notification in the ²[Official Gazette] appoint any Commissioner for Workmen's Compensation or other officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate to be the authority to hear and decide for any special area all claims arising out of deductions from the wages, or delay in payment of the wages of persons employed or paid in that area.

(2) Where contrary to the provisions of this Act any deduction has been made from the wages of an employed person, or any payment of wages has been delayed, such person himself, or any legal practitioner or any official of a registered trade union authorized in writing to act on his behalf, or any Inspector under this Act, or any other person acting with the permission of the authority appointed under sub-section (1), may apply to such authority for a direction under sub-section (3).

Provided that every such application shall be presented within six months from the date on which the deduction from the wages was made or from the date on which the payment of the wages was due to be made, as the case may be :

Provided further that any application may be admitted after the said period of six months when the applicant satisfies the authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other

¹ These words were substituted for the words "Local Government", *ibid.*

² These words were substituted for the words "local official Gazette", *ibid.*

person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and, after such further inquiry (if any) as may be necessary, may without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person, of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding ten rupees in the latter

Provided that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to—

- (a) a *bona fide* error or *bona fide* dispute as to the amount payable to the employed person, or
- (b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or
- (c) the failure of the employed person to apply for or accept payment.

(4) If the authority hearing any application under this section is satisfied that it was either malicious or vexatious, the authority may direct that a penalty not exceeding fifty rupees be paid to the employer or other person responsible for the payment of wages by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered—

- (a) if the authority is a Magistrate, by the authority as if it were a fine imposed by him as Magistrate, and
- (b) if the authority is not a Magistrate, by any Magistrate to whom the authority makes application in this behalf, as if it were a fine imposed by such Magistrate.

16. Single application in respect of claims from unpaid group.—(1) Employed persons are said to belong to the same unpaid group if they are borne on the same establishment and if their wages for the same wage-period or periods have remained unpaid after the day fixed by section 5.

(2) A single application may be presented under section 15 on behalf or in respect of any number of employed persons belonging

to the same unpaid group, and in such case the maximum compensation that may be awarded under sub-section (3) of section 15 shall be ten rupees per head.

(3) The authority may deal with any number of separate pending applications, presented under section 15 in respect of persons belonging to the same unpaid group, as a single application presented under sub-section (2) of this section, and the provisions of that sub-section shall apply accordingly.

17. Appeal.—(1) An appeal against a direction made under ¹[sub-section (3) or sub-section (4)] of section 15 may be preferred, within thirty days of the date on which the direction was made, in a Presidency town² or before the Court of Small Causes and elsewhere before the District Court—

- (a) by the employer or other person responsible for the payment of wages under section 3, if the total sum directed to be paid by way of wages and compensation exceeds three hundred rupees, or
- (b) by an employed person, if the total amount of wages claimed to have been withheld from him or from the unpaid group to which he belonged exceeds fifty rupees, or
- (c) by any person directed to pay a penalty under ³[sub-section (4)] of section 15.

(2) Save as provided in sub-section (1), any direction made under sub-section (3) or ³[sub-section (4)] of section 15 shall be final.

18. Powers of authorities appointed under section 15.—Every authority appointed under sub-section (1) of section 15 shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898).

¹ These words, brackets and figures were substituted for the word, brackets and figure "sub-section (3)" by s. 2 and First Schedule of the Repealing and Amending Act, 1937 (XX of 1937).

² The words "or in Rangoon" were omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.

³ This word, brackets and figure were substituted for the word, brackets and figure "sub-section (5)" by s. 2 and First Schedule of the Repealing and Amending Act, 1937 (XX of 1937).

19. Power to recover from employer in certain cases.—

When the authority referred to in section 15 or the Court referred to in section 17 is unable to recover from any person (other than an employer) responsible under section 3 for the payment of wages any amount directed by such authority under section 15 or section 17 to be paid by such person, the authority shall recover the amount from the employer of the employed person concerned

20. Penalty for offences under the Act.—(1) Whoever being responsible for the payment of wages to an employed person contravenes any of the provisions of any of the following section namely section 5 and section 7 to 13, both inclusive, shall be punishable with fine which may extend to five hundred rupees

(2) Whoever contravenes the provisions of section 4, section 6 or section 25 shall be punishable with fine which may extend to two hundred rupees.

21. Procedure in trial of offences.—(1) No Court shall take cognizance of a complaint against any person for an offence under sub-section (1) of section 20 unless an application in respect of the facts constituting the offence has been presented under section 15 and has been granted wholly or in part and the authority empowered under the latter section or the appellate Court granting such application has sanctioned the making of the complaint

(2) Before sanctioning the making of a complaint against any person for an offence under sub-section (1) of section 20 the authority empowered under section 15 or the appellate Court, as the case may be, shall give such person an opportunity of showing cause against the granting of such sanction, and the sanction shall not be granted if such person satisfies the authority or Court that his default was due to—

- (a) a *bona fide* error or *bona fide* dispute as to the amount payable to the employed person, or
- (b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or
- (c) the failure of the employed persons to apply for or accept payment.

(3) No Court shall take cognizance of a contravention of section 4 or of section 6 or of a contravention of any rule made under section

26 except on a complaint made by or with the sanction of an Inspector under this Act.

(4) In imposing any fine for an offence under sub-section (1) of section 20 the Court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 15.

22. Bar of suits.—No Court shall entertain any suit for the recovery of wages or of any deduction from wages in so far as the sum so claimed—

- (a) forms the subject of an application under section 15 which has been presented by the plaintiff and which is pending before the authority appointed under that section or of an appeal under section 17 ; or
- (b) has formed the subject of a direction under section 15 in favour of the plaintiff ; or
- (c) has been adjudged, in any proceeding under section 15 ; not to be owed to the plaintiff ; or
- (d) could have been recovered by an application under section 15.

23. Contracting out.—Any contract or agreement, whether made before or after the commencement of this Act, whereby an employed person relinquishes any right conferred by this Act shall be null and void in so far as it purports to deprive him of such right.

¹[**24. Application of Act to Federal railways, mines and oilfields.**—The powers by this Act conferred upon the Provincial Government shall, in relation to Federal railways (within the meaning of the Government of India Act, 1935 (26 Geo. 5, C. 2)), mines and oilfields, be powers of the Central Government.]

25. Display by notice of Abstracts of the Act.—The person responsible for the payment of wages to persons employed in a factory shall cause to be displayed in such factory a notice containing such abstracts of this Act and of the rules made thereunder in English and in the language of the majority of the persons employed in the factory, as may be prescribed.

¹ This section was substituted by the Government of India (Adaptation of Indian Laws) Order, 1937.

26. Rule-making power.—(1) The ¹[Provincial Government] may make rules to regulate the procedure to be followed by the authorities and Courts referred to in sections 15 and 17

(2) The ²[Provincial Government] may, by notification in the ³[Official Gazette] make rules for the purpose of carrying into effect the provisions of this Act.

(3) In particular and without prejudice to the generality of the foregoing power, rules made under sub-section (2) may—

- (a) require the maintenance of such records, registers, returns and notices as are necessary for the enforcement of the Act and prescribe the form thereof ;
- (b) require the display in a conspicuous place on premises where employment is carried on of notices specifying rates of wages payable to persons employed on such premises ;
- (c) provide for the regular inspection of the weights, measures and weighing machines used by employers in checking or ascertaining the wages of persons employed by them ;
- (d) prescribe the manner of giving notice of the days on which wages will be paid ;
- (e) prescribe the authority competent to approve under sub-section (1) of section 8 acts and omissions in respect of which fines may be imposed ;
- (f) prescribe the procedure for the imposition of fines under section 8 and for the making of the deductions referred to in section 10 ;
- (g) prescribe the conditions subject to which deductions may be made under the proviso to sub-section (2) of section 9 ;
- (h) prescribe the authority competent to approve the purposes on which the proceeds of fines shall be expended ;
- (i) prescribe the extent to which advances may be made and the instalments by which they may be required with reference to clause (b) of section 12 ;

¹ These words were substituted for the words "Governor-General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Local Government", *ibid.*

³ The words "subject to the control of the Governor-General in Council" were omitted, *ibid.*

⁴ These words were substituted for the words "local official Gazette", *ibid.*

- (j) regulate the scales of costs which may be allowed in proceedings under this Act ;
- (k) prescribe the amount of court-fees payable in respect of any proceedings under this Act ; and
- (l) prescribe the abstracts to be contained in the notices required by section 25

(4) In making any rule under this section the ¹[Provincial Government] may provide that a contravention of the rule shall be punishable with fine which may extend to two hundred rupees

(5) All rules made under this section shall be subject to the condition of previous publication and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), shall not be less than three months from the date on which the draft of the proposed rules was published.

PAYMENT OF WAGES (PROCEDURE) RULES, 1937

Contents.

1. Short title.
2. Definitions.
3. Form of application.
4. Authorisation.
5. Permission to appear.
6. Presentation of documents.
7. Refusal to entertain application.
8. Appearance of parties.
9. Record of proceedings.
10. Signature on forms.
11. Exercise of powers.
12. Appeals
13. Inspection of documents.
- Forms.

¹ These words were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937

PAYMENT OF WAGES (PROCEDURE) RULES, 1937¹

In exercise of the powers conferred by sub-section (1) of section 26 of the Payment of Wages Act, 1936 (IV of 1936), read with section 22 of the General Causes Act, 1897 (X of 1897), the Central Government is pleased to make the following rules, the same having been previously published as required by sub-section (5) of section 26 of the first-named Act, namely —

RULES

1. Short title —These rules may be called the Payment of Wages (Procedure) Rules, 1937.

2. Definitions —In these rules, unless there is anything repugnant in the subject or context,—

- (a) “the Act” means the Payment of Wages Act (IV of 1936) ;
- (b) “appeal” means an appeal under section 17 ;
- (c) “the Authority” means the authority appointed under sub-section (1) of section 15 ;
- (d) “the Court” means the court mentioned in sub-section (1) of section 17 ;
- (e) “employer” includes the persons responsible for the payment of wages under section 3 ;
- (f) “section” means a section of the Act ;
- (g) “Form” means a form appended to these rules ;
- (h) words and expressions defined in the Act shall be deemed to have the same meaning as in the Act.

3. Form of application —Applications under sub-section (2) of section 15 by or on behalf of an employed person or group of employed persons shall be made in duplicate in Form A, Form B or Form C as the case may be, one copy of which shall bear such court-fee as may be prescribed.

4. Authorisation —The authorisation to act on behalf of an employed person or persons, under section 15, shall be given by a certificate in Form D, shall be presented to the Authority hearing the application and shall form part of the record.

5. Permission to appear.—Any person desiring the permission of the Authority to act on behalf of any employed person or persons

¹ These Rules were published under Department of Industries and Labour Notification No. L-3067 dated 24th February, 1937

shall present to the Authority a brief written statement explaining his interest in the matter, and the Authority shall record an order on the statement, which in the case of refusal shall include reasons for the order, and shall incorporate it in the record.

6. Presentation of documents.—(1) Application or other documents relevant to an application may be presented in person to the Authority at any time during hours to be fixed by the Authority, or may be sent to him by registered post.

(2) The Authority shall at once endorse, or cause to be endorsed, on each document the date of the presentation or receipt, as the case may be,

7. Refusal to entertain application.—(1) The Authority may refuse to entertain an application presented under rule 6, if after giving the applicant an opportunity of being heard, the Authority is satisfied, for reasons to be recorded in writing that:—

- (a) the applicant is not entitled to present an application, or
- (b) the application is barred by reason of the provisions in the provisos to sub-section (2) of section 15, or
- (c) the applicant shows no sufficient cause for making a direction under section 15.

(2) The Authority may refuse to entertain an application which is insufficiently stamped or is otherwise incomplete and, if he so refuses, shall return it at once with an indication of the defects. If the application is presented again after the defects have been made good, the date of representation shall be deemed to be the date of presentation for the purposes of the provisos to sub-section (2) of section 15.

8. Appearance of parties.—(1) If the application is entertained, the Authority shall call upon the employer by a notice in Form E to appear before him on a specified date together with all relevant documents and witnesses, if any, and shall inform the applicant of the date so specified.

(2) If the employer or his representative fails to appear on the specified date, the Authority may proceed to hear and determine the application *ex parte*.

(3) If the applicant fails to appear on the specified date, the Authority may dismiss the application:

Provided that an order passed under sub-rule (2) or sub-rule (3) may be set aside and the application reheard on good cause being

shown within one month of the date of the said order, notice being served on the opposite party of the date fixed for rehearing.

9. Record of proceedings—(1) The Authority shall in all cases enter the particulars indicated in Form F and at the time of passing orders shall sign and date the Form.

(2) In a case where no appeal lies, no further record shall be necessary

(3) In a case where an appeal lies, the Authority shall record the substance of the evidence and shall append it under his signature to the Record of Direction in Form F.

10. Signature on forms—Any form, other than a Record of Direction, which is required by these rules to be signed by the Authority, may be signed under his direction and on his behalf by any officer subordinate to him appointed by him in writing for this purpose.

11. Exercise of powers—In exercising the powers of a Civil Court conferred by section 18 the Authority shall be guided in respect of procedure by the relevant orders of the first Schedule of the Code of Civil Procedure, 1908, with such alterations as the Authority may find necessary, not affecting their substance, for adapting them to the matter before him, and save where they conflict with the express provisions of the Act or these rules.

12. Appeals—(1) An appeal shall be preferred in duplicate in the form of a memorandum one copy of which shall bear the prescribed court-fee, setting forth concisely the grounds of objection to the direction and shall be accompanied by a certified copy of that direction.

(2) When an appeal is lodged a notice shall issue to the respondent in Form G.

(3) The Court after hearing the parties and after such further inquiry, if any, as it may deem necessary, may confirm, vary, or set aside the direction from which the appeal is preferred, and shall make an order accordingly.

13. Inspection of documents.—Any employed person, or any employer or his representative, or any person permitted under sub-section (2) of section 15 to apply for a direction, shall be entitled to inspect any application, memorandum of appeal, or any other document filed with the Authority or the Court, as the case may be, in a case to which he is a party, and may obtain copies thereof on the payment of such fees as may be prescribed

FORM A.

FORM OF INDIVIDUAL APPLICATION

[See sub-section (2) of section 15 of the Payment of Wages Act]

In the Court of the Authority appointed under the Payment of Wages Act
(IV of 1936) for area

Application No of 19

Between A B C

. applicant

(through

a legal practitioner.

an official of

which is a registered trade union)

And X Y Z

opposite party

The applicants state as follows :—

1. A B C is a person employed ⁱⁿ—the
on

factory

railway

industrial establishment

and resides at

entitled

The address of the applicant for the service of all notices and processes is :—

2 X Y Z., the opposite party, is the person responsible for the payment of his wages under section 3 of the Act, and his address for the service of all notices and processes is :—

3. (1) The applicants' wages have not been paid for the following wage period(s) (give dates)

Of A sum of Rs has been unlawfully deducted from his wages of (amount) for the wage period(s) which ended on [give date(s)]

(2) [Here give any further claim or explanation]

4 The applicant estimates the value of the relief sought by him at the sum of rupees

5. The applicant prays that a direction may be issued under sub-section (3) of section 15 for :—

(a) Payment of his delayed wages as estimated or such greater or lesser amount as the Authority may find to be due.

Or, Refund of the amount illegally deducted.

(b) Compensation amounting to

The applicant certifies that the statement of facts contained in this application is to the best of his knowledge and belief accurate

*Signature or thumb impression of the
employed person, or legal practitioner,
or official of a registered
trade union duly authorised*

FORM B.

FORM OF GROUP APPLICATION

[See sub-section (2) of section 15 and section 16 of the
Payment of Wages Act]

In the Court of the Authority appointed under the Payment of Wages Act
(IV of 1936) for _____ area

Application No _____ of 19 _____

Between A B C and (state the number) _____ others,
applicants.

(through _____ a legal practitioner _____
_____ an official of _____
_____ which is a registered
trade union)

And X Y Z _____ opposite party

The applicants state as follows.—

1 The applicants whose names appear in the attached schedule are
persons employed—ⁱⁿ the ^{factory} _____ ^{railway} _____ ^{industrial establishment} _____ entitled
on _____

The address of the applicants for service of all notices and processes is

2 X Y Z, the opposite party, is the person responsible for the
payment of wages under section 3 of the Act, and his address for the service
of all notices and processes is.—

3 The applicants wages have not been paid for the following wage
period(s) —

4 The applicants estimate the value of the relief sought by them at the
sum of rupees.

5. The applicants pray that a direction may be issued under sub-section (3)
of section 15 for:—

(a) Payment of the applicants' delayed wages as estimated
..... or such greater or lesser amount
as the Authority may find to be due

(b) Compensation amounting to

The applicants certify that the statement of facts contained in this appli-
cation is to the best of their knowledge and belief accurate

*Signature or thumb impression or two
of the applicants, or legal practi-
tioner, or an official of a registered
trade union duly authorised.*

SCHEDULE

Names of applicants —

- 1
- 2
- 3
- 4

FORM C.

FORM OF APPLICATION BY AN INSPECTOR OR PERSON PERMITTED BY THE
AUTHORITY OR AUTHORISED TO ACT

[See sub-section (2) of section 15 and section 16 of the
Payment of Wages Act]

In the Court of the Authority appointed under the Payment of Wages Act,
for. area

Application No. of 19
Between A B C [(designation) an Inspector under the
Payment of Wages Act] [or a person permitted by the authority to act under
sub-section (2) of section 15]. authorised
applicant

And

X. Y. Z the opposite party

The applicant states as follows:—

1. X Y Z, the opposite party is the person responsible under the Act
for the payment of wages to the following person(s) —

- (1)
- (2)
- (3)

,

2. His address for the service of all notices and processes is:—

3. The wages of the said person(s) due in respect of the follow-
ing wage period(s) have not been paid
have been subjected to the following illegal deductions —

4. The applicant estimates the value of the relief sought for the person(s)
employed at the sum of Rs.

5. The applicant prays that a direction may be issued under sub-section (3)
of section 15 for:—

(a) Payment of the delayed wages as estimated or such greater or lesser
amount as the Authority may find to be due.

(b) Refund of the amount illegally deducted

(b) Compensation amounting to

The applicant certifies that the statement of facts contained in this application is to the best of his knowledge and belief accurate.

Signature

FORM D.

CERTIFICATE OF AUTHORIZATION

I, _____, employed person(s) hereby authorize a legal practitioner
We _____ an official of _____

which is a registered trade union to act on ^{my} _{our}

behalf under section 15, and section 17 of the Payment of Wages Act (IV of 1936) in respect of the claim against on

account of the { delay in payment of } my
 { illegal deductions from } - wages
 on

for

Witnesses (1)

(2)

(3)

(4)

1

Signatures (1)

(2)

134

(1)

I accept the authorisation

Signal:
$$L^2(\mathbb{R}^d) \rightarrow L^2(\mathbb{R}^d)$$

Official of a registered local union.

FORM E.

NOTICE FOR THE DISPOSAL OF APPLICATION

To

Whereas under the Payment of Wages Act 1936 (V of 1936) a claim against you has been presented to me in the application of which a copy is enclosed you are hereby called upon to appear before me either in person, or by any

person duly instructed, and able to answer all material questions relating to the application, or who shall be accompanied by some person able to answer all such questions, on the _____ day of _____ 19____ at _____ o'clock

fore _____ noon to answer the claim, and as the day fixed for your appearance is appointed for the final disposal of the application, you must be prepared to produce on that day all the witnesses upon whose evidence, and the documents upon which you intend to rely in support of your defence

Take notice that, in default of your appearance on the day before mentioned, the application will be heard and determined in your absence

Given under my hand and seal, this day of _____ 19____

Seal

Authority.

FORM F.

RECORD OF DIRECTION.

- (1) Serial number
 - (2) Date of the application
 - (3) Name or names, parentage, address, or addresses of the applicants, or some, or all of the applicants belonging to the same unpaid group :—
 - (4) Name and address of the employer —
 - (5) Amount claimed —
 - (a) as delayed wages Rs.
 - (b) as deducted from wages Rs.
 - (6) Plea of the employer and his examination (if any) :—
 - (7) Finding, and, in the case of a direction under sub-section (3) or (4) of section 15, a brief statement of the reasons therefor :—
 - (8) Amounts awarded— Rs.
 - (a) Delayed wages
 - (b) Deducted wages
 - (9) Compensation award
 - (10) Penalty imposed
 - (11) Costs awarded to—
 - (i) Court-fee charges
 - (ii) Pleader's fee
 - (iii) Witnesses expenses..... ..
- Signed.
- Dated.

NOTE.— In cases where an appeal lies attach on a separate sheet the substance of the evidence.

FORM G.

NOTICE TO RESPONDENT OF THE DAY FIXED FOR THE HEARING OF THE APPEAL
UNDER SECTION 17 OF THE PAYMENT OF WAGES ACT, 1936

Appeal from the decision of the Authority for the
area, dated the . . . day of . 19
To

Respondent

Take notice that an appeal of which a copy is enclosed, from the decision
of the Authority for. . . area has been presented by X Y Z (and
others), and registered in this Court, and that the . . .
day of . . . 19 , has been fixed by this Court for the hearing
of this appeal

If no appearance is made on your behalf by yourself, or by some one by
law authorised to act for you in this appeal, it will be heard and decided in
your absence

Given under my hand and the seal of the Court, this . . .
day of . . . 19

Judge

Seal of the
Court

PAYMENT OF WAGES (RAILWAYS) RULES, 1937

Contents.

- 1 Title and application.
2. Definitions.
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5. Register of wages
- 6 Maintenance of Registers
7. Places for displaying notices.
8. Notice of dates of payment.
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10. Application in respect of fines.
11. Approval of list of acts and omissions
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15. Information to paymaster.
16. Deduction under the proviso to sub-section (2) of section 9.
17. Annual return.

- 18. Costs and court-fees.
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PAYMENT OF WAGES (RAILWAYS) RULES, 1937¹

In exercise of the powers conferred by sub-sections (2), (3) and (4) of section 26, read with section 24, of the Payment of Wages Act, 1936 (IV of 1936), read with section 22 of the General Clauses Act, 1897 (X of 1897), the Central Government is pleased to make the following rules, the same having been previously published as required by sub-section (5) of section 26 of the first-named Act, namely —

RULES

1. *Title and application.*—(1) These rules may be called the Payment of Wages (Railways) Rules, 1937.

(2) These rules apply in respect of the payment of wages to persons employed upon any railway (including factories) by or under a Railway Administration.

2. *Definitions*—In these rules, unless there is anything repugnant in the subject or context,—

- (a) “the Act” means the Payment of Wages Act (IV of 1936) ;
- (b) “the Authority” means the authority appointed under sub-section (1) of section 15 of the Act ;
- (c) “the Chief Inspector of Factories” means the Chief Inspector of Factories appointed under sub-section (2) of section 10 of the Factories Act (XXV of 1934) ;
- (d) “the Court” means the court mentioned in sub-section (1) of section 17 of the Act ;
- (e) “deduction for breach of contract” means a deduction made in accordance with the provisions of the proviso to sub-section (2) of section 9 ;
- (f) “deduction for damage or loss” means a deduction made in accordance with the provisions of clause (c) of sub-section (2) of section 7 ;
- (g) “Form” means a form appended to these rules ;
- (h) “Inspector” means an inspector authorized by or under section 14 of the Act ;

¹ These Rules were published under Department of Industries and Labour Notification No L 3070, dated the 10th March, 1937.

- (c) "person employed" does not include any person to the payment of whose wages the Act does not apply ;
- (d) "section" means a section of the Act ;
- (e) "paymaster" means the Railway Administration or other person or persons who may be nominated as such by the Railway Administration under clause (c) of section 3 ;
- (f) "the Supervisor" means the Supervisor of Railway Labour appointed under sub-section (1) of section 71G of the Indian Railways Act (IX of 1890) ,
- (g) words and expressions defined in the Act shall be deemed to have the same meaning as in the Act

3. Register of fines.—(1) On any railway of which the Railway Administration has obtained approval under sub-section (1) of section 8 to a list of acts and omissions in respect of which fines may be imposed, the paymaster shall maintain a Register of fines in Form I

(2) At the beginning of the Register of fines there shall be entered serially numbered the approved purpose or purposes on which the fines realized are to be expended.

(3) When any disbursements are made from the fines realized a deduct entry of the amount so expended shall be made in the Register of fines, and a voucher or receipt in respect of the amount shall be affixed to the Register. If more than one purpose has been approved the entry of the disbursement shall also indicate the purpose for which it is made.

4. Register of deductions for damage or loss.—On every railway in which deductions for damage or loss are made the paymaster shall maintain the Register required by sub-section (2) of section 10 in Form II.

5. Register of wages.—A Register of wages shall be maintained by every Railway Administration and may be kept in such form as the paymaster finds convenient but shall include the following particulars.—

- (a) the gross wages of each person employed for each wage-period ;
- (b) all deductions made from those wages, with an indication, in each case, of the clause of sub-section (2) of section 7 under which the deduction is made ;
- (c) the wages actually paid to each person employed for each wage-period.

6. Maintenance of registers.—The registers required by rules 3, 4 and 5 shall be preserved for twelve months after the date of the last entry made in them.

7. Places for displaying notices.—The supervisor shall specify such place or places on the railway, other than factories, as he thinks fit (hereinafter referred to as “specified place” or “specified places”) for the display of notices, lists and rules under rules 8, 12 and 16.

8. Notice of dates of payment.—The paymaster shall display, in a conspicuous place at or near the main entrance of every factory in his jurisdiction, and at the specified place or specified places, notice, in English and in the language of the majority of the persons employed at such factories or places showing for not less than two months in advance, the days on which wages are to be paid.

9. Prescribed authority.—The Chief Inspector of Factories, in respect of factories in his jurisdiction, and the Supervisor in other cases, shall be the authority competent to approve, under sub-section (1) of section 8, acts and omissions in respect of which fines may be imposed and, under sub-section (8) of section 8, the purposes to which the proceeds of fines shall be applied.

10. Application in respect of fines.—Every Railway Administration requiring the power to impose fines in respect of any acts and omissions on the part of employed persons shall send to the Chief Inspector of Factories or the Supervisor, as the case may be—

(a) a list, in English, in duplicate, clearly defining such acts and omissions ;

(b) in cases where the Railway Administration itself does not intend to be the sole authority empowered to impose fines, a list, in duplicate, showing, by virtue of office, such of its officers as may pass orders imposing fines and the class of establishment on which any such officer may impose fine.

11. Approval of list of acts and omissions.—The authority prescribed under rule 9 may, on receipt of the list prescribed in sub-rule (a) of rule 10, and after such enquiry as he considers necessary, pass orders in respect of the list referred to in clause (a) of rule 10 either—

(a) disapproving the list,

(b) approving the list either in its original form or as amended by him, in which case such list shall be deemed to have been approved under sub-section (1) of section 8 :

Provided that no order disapproving or amending the list shall be passed unless the Railway Administration shall have been given an opportunity of showing cause orally or in writing against such order.

12. Posting of list.—The Railway Administration shall display at or near the main entrance of every factory, and at the specified place or specified places, a copy in English, together with a literal translation thereof, in the language of the majority of the persons employed at such factory or place of the list approved under rule 11.

13. Persons authorized to impose fines.—No fine may be imposed by any person other than the Railway Administration, or a person holding an appointment named in the list referred to in sub-rule (b) of rule 10.

14. Procedure in imposing fines and deductions.—No fine shall be imposed on and no deductions made from a person employed upon a railway except in accordance with the procedure laid down in the rules and regulations in force on the Railway Administration, and no fine shall be imposed or deduction made until the employed person has been given an opportunity of showing cause against such imposition or deduction.

15. Information to paymaster.—The person imposing a fine or directing the making of a deduction for damage or loss shall at once inform the paymaster of all particulars necessary for the completion of the register prescribed in Rule 3 or Rule 4, as the case may be.

16. Deductions under the proviso to sub-section (2) of section 9.—(1) No deduction under the proviso to sub-section (2) of section 9 shall be made from the wages of an employed person who is under the age of fifteen years or is a woman.

(2) No such deduction shall be made from the wages of any employed person unless—

- (a) there is provision in writing in the terms of the contract of employment requiring him to give notice of the termination of his employment, and
 - (i) the period of this notice does not exceed fifteen days or the wage-period, whichever is less ; and
 - (ii) the period of this notice does not exceed the period of notice which the employer is required to give of the termination of that employment ;
- (b) this rule has been displayed in English and in the language of the majority of the employed persons at or near the

main entrance of the factory and at the specified place or specified places, concerned, and has been so displayed for not less than one month before the commencement of the absence in respect of which the deduction is made ;

- (c) a notice has been displayed at or near the main entrance of the factory, and at the specified place or specified places, concerned, giving the names of the persons from whom the deduction is proposed to be made, the number of days' wages to be deducted and the conditions (if any) on which the deduction will be remitted :

Provided that where the deduction is proposed to be made from all the persons employed in any departments or sections or factories of the railway, it shall be sufficient, in lieu of giving the names of the persons in such departments, sections, or factories to specify the departments, sections, or factories affected.

(3) No such deduction shall exceed the wages of the person employed for the period by which the notice of termination of service given falls short of the period of such notice required by the contract of employment.

(4) If any conditions have been specified in the notice displayed under clause (c) of sub-rule (2), no such deduction shall be made from any person who has complied with such conditions.

17. Annual return.—Every Railway Administration in which during the year ending the 31st March any fines have been imposed or any deductions for breach of contract or for damage or loss have been made from wages, shall send a return in Form III so as to reach the Chief Inspector of Factories or the Supervisor, as the case may be, not later than the 15th of May following the end of the year to which it relates.

18. Costs and court-fees.—The scales of costs which may be allowed in, and the amount of court-fees payable in respect of, proceedings under the Act to which these rules apply shall be such scales and such amount as are prescribed by the Local Government in that behalf for the Authority or Court concerned.

19. Abstracts.—The Abstracts of the Act and of the Rules made thereunder to be displayed under section 25 shall be in Form IV.

20. Penalties.—Any breach of rules 3, 4, 5, 6, 8, 12, 15 and 17 of these rules shall be punishable with fine which may extend to two hundred rupees.

FORM I
REGISTER OF FINES

Department _____
Division _____
Railway District _____
Factory _____

Serial No.	Name.	Father's name	Department	Act or omission for which fine imposed	Whether workman showed cause against fine or not. If so, enter date	Rate of wages	Date and amount of fine imposed	Date on which fine realised	Remarks
1	2	3	4	5	6	7	8	9	10

FORM II

REGISTER OF DEDUCTIONS FOR DAMAGE OR LOSS CAUSED TO THE EMPLOYER,
BY THE NEGLIGENCE OR DEFAULT OF THE EMPLOYED PERSONS

Department _____
Division _____
Railway District _____
Factory _____

Serial No.	Name.	Father's name.	Department.	Damages or loss caused.	Whether worker showed cause against deduction or not. If so, enter the date	Date and amount of deduction imposed	Nos of instalments if any	Date on which total amount realised	Remarks.
1	2	3	4	5	6	7	8		10

FORM III

DEDUCTIONS FROM WAGES

Return for the year ending 31st March, 19 .

- 1 Name of ^{railway}factory and postal address of headquarters
- 2 Total number of persons employed Adults
Children
- 3 Total wages paid
- 4 Number of cases and amounts realized as

	No of cases	Amounts
		Rs.
(a) Fines		
(b) Deductions for damage or loss		
(c) Deductions for breach of contract		

- 5 Disbursements from fine fund—

	Amounts	Purpose
	Rs	

Signature
Designation

Dated 194 .

FORM IV

ABSTRACT OF THE PAYMENT OF WAGES ACT, 1936, AND
THE RULES MADE THEREUNDER

Whom the Act affects

1. The Act applies to the payment of wages to persons in this factory receiving less than Rs. 200 a month.
2. No employed person can give up by contract or agreement his rights under the Act.

Definition of Wages

3. "Wages" means all remuneration payable to an employed person on the fulfilment of his contract of employment.

to factors bonds and any sum payable for want of a proper notice of discharge.

It excludes—

- (a) the value of house-accommodation, supply of light, water, medical attendance, or other amenity or of any service excluded by the Central Government or the Provincial Government;
- (b) the employer's contribution to a pension or provident fund;
- (c) travelling allowance or concession or other special expenses entailed by the employment,
- (d) any gratuity payable on discharge

Responsibility for and Method of Payment

1 The manager of the factory is responsible for the payment under the Act of Wages to persons employed under him, and any contractor employing persons is responsible for payment to the persons he employs

5 Wage-periods shall be fixed for the payment of wages at intervals not exceeding one month

6 Wages shall be paid on a working day within seven days of the end of the wage period (or within ten days if 1,000 or more persons are employed)

The wages of a person discharged shall be paid not later than the second working day after his discharge

7 Payments in kind are prohibited

Fines and Deductions

8 No deductions shall be made from wages except those authorised under the Act (see paragraphs 9-15 below).

9 (1) Fines can be imposed only for such acts and omissions as the employer may, with the previous approval of the Chief Inspector of Factories, specify by a notice displayed at or near the main entrance of the factory and after giving the employed person an opportunity for explanation

(2) Fines—

- (a) shall not exceed half-an-anna in the rupee;
- (b) shall not be recovered by instalments, or later than sixty days of the date of imposition,
- (c) shall be recorded in a register and applied to such purposes beneficial to the employed persons as approved by the Chief Inspector of Factories,
- (d) shall not be imposed on a child.

10. (a) Deductions for absence from duty can be made only on account of the absence of the employed persons at times when he should be working, and such deductions must not exceed an amount which is in the same proportion to his wages for the wage-period, as the time he was absent in that period is to the total time he should have been at work

(b) If ten or more employed persons, acting in concert, absent themselves without reasonable cause and without due notice, the deduction for absence can include wages for eight days in lieu of notice, but

(1) no deduction for breaking a contract can be made from a person under 15 or a woman,

- (2) there must be a provision in writing which forms part of the contract of employment, requiring that a specific period of notice of intention to cease work not exceeding 15 days or the period of notice which the employer has to give to discharge a worker, must be given to the employer and that wages may be deducted in lieu of such notice,
- (3) the above provision must be displayed at or near the main entrance of the factory,
- (4) no deduction of this nature can be made until a notice that this deduction is to be made has been posted at or near the main entrance of the factory,
- (5) no deduction must exceed the wages of the employed person for the period by which the notice he gives of leaving employment is less than the notice he should give under his contract.

11. Deductions can be made for damage to or loss of goods expressly entrusted to an employed person or for loss of money for which he is required to account, where such damage or loss is due to his neglect or default.

Such deduction cannot exceed the amount of the damage or loss caused and can be made only after giving the employed person an opportunity for explanation.

12. Deductions can be made, equivalent to the value thereof, for house accommodation, amenities, or services (other than tools and raw material) supplied by the employer, provided these are accepted by the employed person as a part of the terms of his employment and have in the case of amenities and services been authorised by order of Government.

13. (a) Deductions can be made for the recovery of advances; or for adjustment of overpayment of wages.

(b) Advances made before the employment began can only be recovered from the first payment of wages for a complete wage-period but no recovery can be made of advances given for travelling expenses before employment began.

(c) Advances of unearned wages can be made at the paymaster's discretion during employment.

14. Deductions can be made for subscription to and for repayment of advances from any recognised provident fund.

15. Deductions can be made for payments to co-operative societies approved by the Local Government or to the postal insurance, subject to any conditions imposed by the Local Government.

Inspections

16. An Inspector can enter on any premises, and can exercise powers of inspection (including examination of documents and taking of evidence) as he may deem necessary for carrying out the purposes of the Act.

Complaints of deductions or delays

17 (1) Where irregular deductions are made from wages, or delays in payment take place, an employed person can make an application in the prescribed form within six months to the Authority appointed by the Local Government for the purpose. An application delayed beyond this period may be rejected unless sufficient cause for the delay is shown.

(2) Any legal practitioner, official of a registered trade union, Inspector under the Act, or other person acting with the permission of the Authority can make the complaint on behalf of an employed person.

(3) A single application may be presented by, or on behalf of, any number of persons belonging to the same factory the payment of whose wages has been delayed.

Action by the Authority

18 The Authority may award compensation to the employed person in addition to ordering the payment of delayed wages or the refund of illegal deductions.

If a malicious or vexatious complaint is made, the Authority may impose a penalty not exceeding Rs. 50 on the applicant and order that it be paid to the employer.

Appeal against the Authority

19. An appeal in the prescribed form against a direction made by the Authority may be preferred within 30 days in Madras, Bombay, Calcutta, to the Court of Small Causes and elsewhere to the District Court—

- (a) by the paymaster if the total amount directed to be paid exceeds Rs. 300,
- (b) by an employed person, if the total amount of wages withheld from him or his co-workers, exceeds Rs. 50,
- (c) by a person directed to pay a penalty for a malicious or vexatious application.

Punishments for breaches of the Act

20 Any one delaying the payment of wages beyond the due date, or making any unauthorised deduction from wages is liable to a fine up to Rs. 500, but only if prosecuted with the sanction of the Authority or the appellate Court.

21. The paymaster who—

- (1) does not fix a wage-period, or
- (2) makes payment in kind, or
- (3) fails to display at or near the main entrance of the factory this Abstract in English and in the language of the majority of the employed persons, or
- (4) breaks certain rules made under the Act.

is liable to a fine not exceeding Rs. 200.

A complaint to this effect can be made only by the Inspector, or with his sanction.

PAYMENT OF WAGES (FEDERAL RAILWAYS) RULES, 1938**Contents.**

1. Title and application
 2. Definitions
 3. Register of fines
 4. Register of deductions for damage or loss
 5. Register of wages.
 6. Maintenance of Registers
 7. Place for displaying notices
 8. Notice of dates of payment
 9. Prescribed authority
 10. Application in respect of fines.
 11. Approval of list of acts and omissions
 12. Posting of list.
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 14. Procedure in imposing fines and deductions
 15. Information to paymaster.
 16. Deductions under the proviso to sub-section (2) of section 9.
 17. Annual return.
 18. Advances to persons employed by a contractor.
 19. Procedure, costs and court fees.
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- Forms

PAYMENT OF WAGES (FEDERAL RAILWAYS) RULES, 1938¹

In exercise of the powers conferred by sub-sections (2), (3) and (4) of section 26, read with section 24, of the Payment of Wages Act, 1936 (IV of 1936), and in supersession of the Payment of Wages (Railways) Rules, 1937, in so far as they relate to Federal Railways Rules, 1937, in so far as they relate to Federal Railways within the meaning of the Government of India Act, 1935, the Central Government is pleased to make the following rules, the same having

¹ These Rules were published in the Gazette of India, under Department of Labour Notification No. L 3070(1), dated 5th May, 1938, as subsequently amended from time to time.

been previously published as required by sub-section (5) of section 26 of the first-named Act, namely :—

Rules

1. Title and application—(1) These rules may be called the Payment of Wages (Federal Railways) Rules, 1938

(2) These rules apply in respect of the payment of wages to persons employed upon any federal railway (including factories) by or under a Railway Administration or by a contractor employing, on the average, 20 or more persons daily in any one month in the preceding 12 months

2. Definitions—In these rules, unless there is anything repugnant in the subject or context,—

- (a) “the Act” means the Payment of Wages Act (IV of 1936) ;
- (b) “the Authority” means the authority appointed under sub-section (1) of section 15 of the Act ;
- (c) “the Court” means the court mentioned in sub-section (1) of section 17 of the Act ;
- (d) “deduction for breach of contract” means a deduction made in accordance with the provisions of the proviso to sub-section (2) of section 9 ,
- (e) “deduction for damage or loss” means a deduction made in accordance with the provisions of clause (c) of sub-section (2) of section 7 ;
- (f) “Federal Railway” has the same meaning as in the Government of India Act, 1935 ;
- (g) “Form” means a form appended to these rules ;
- (h) “Inspector” means an Inspector authorised by or under section 14 of the Act ;
- (i) “person employed” does not include any person to the payment of whose wages the Act does not apply ;
- (j) “section” means a section of the Act ,
- (k) “paymaster” means the Railway Administration or other person or persons who may be nominated as such by the Railway Administration under clause (c) of section 3; and in the case of a person employed by a contractor, the contractor ;

- (l) "the Supervisor" means the Supervisor of Railway Labour appointed by notification in the *Gazette of India* under sub-section (1) of section 71G of the Indian Railways Act (IX of 1890) ;
- (m) "contractor" means a person fulfilling, either directly or through a sub-contractor, a contract with a Railway Administration ,
- (n) "employer" means the Railway Administration, and in the case of persons employed by a contractor, the contractor ,
- (o) words and expressions defined in the Act shall be deemed to have the same meaning as in the Act

3. Register of Fines—(1) On any railway where the employer has obtained approval under sub-section (1) of section 8 to a list of acts and omissions in respect of which fines may be imposed, the paymaster shall maintain a Register of Fines in Form I.

(2) At the beginning of the Register of Fines there shall be entered serially numbered the approved purpose or purposes on which the fines realized are to be expended.

(3) When any disbursements are made from the fines realized, a deduct entry of the amount so expended shall be made in the Register of Fines, and a voucher or receipt in respect of the amount shall be affixed to the Register. If more than one purpose has been approved the entry of the disbursement shall also indicate the purpose for which it is made

4. Register of deductions for damage or loss—On every railway in which deductions for damage or loss are made the paymaster shall maintain the Register required by sub-section (2) of section 10 in Form II.

5. Register of Wages.—A Register of Wages shall be maintained by every employer and may be kept in such form as the paymaster finds convenient but shall include the following particulars :—

- (a) the gross wages of each person employed for each wage period ;
- (b) all deductions made from those wages, with an indication, in each case, of the clause of sub-section (2) of section 7 under which the deduction is made ;
- (c) the wages actually paid to each person employed for each wage period and the date of payment ;

3. Maintenance of Registers—The registers required by rules 3, 4 and 5 shall be preserved for twelve months after the date of the last entry made in them

The registers shall normally be maintained in English, but where they are maintained in any other language than English, a true translation thereof in English shall be available

7. Places for displaying notices—The Supervisor shall specify such place or places on the railway, other than factories, as he thinks fit (hereinafter referred to as "specified place" or "specified places") for the display of notices, lists and rules under rules 8, 12 and 16

8. Notice of dates of payment—The paymaster shall display, in a conspicuous place at or near the main entrance of every factory in his jurisdiction, and at the specified place or specified places, a notice, in English and in the language of the majority of the persons employed at such factories or places showing for not less than two months in advance, the days on which wages are to be paid

9. Prescribed authority—The Supervisor shall be the authority competent to approve, under sub-section (1) of section 8, acts and omissions in respect of which fines may be imposed and, under sub-section (8) of section 8, the purposes to which the proceeds of fines shall be applied

10. Application in respect of fines—Every employer requiring the power to impose fines in respect of any acts and omissions on the part of employed persons shall send to the Supervisor—

(a) a list, in English, in duplicate, clearly defining such acts and omissions,

(b) in cases where the Railway Administration himself does not intend to be the sole authority empowered to impose fines, a list, in duplicate, showing, by virtue of office, such of his officers as may pass orders imposing fines and the class of establishment on which any such officer may impose fine

11. Approval of list of acts and omissions—The Supervisor may, on receipt of the list prescribed in sub-rule (a) of rule 10, and after such enquiry as he considers necessary, pass orders in respect of the list referred to in clause (a) of rule 10 either—

(a) disapproving the list

(b) approving the list either in its original form or as amended by him, in which case such list shall be deemed to have been approved under sub-section (1) of section 8:

Provided that no order disapproving or amending the list shall be passed unless the employer shall have been given an opportunity of showing cause orally or in writing against such order

12. *Posting of list*—The employer shall display at or near the main entrance of every factory, and at the specified place or specified places, a copy in English, together with a literal translation thereof in the language of the majority of the person employed at such factory or place, of the list of acts and omissions approved by the authority prescribed under Rule 9.

13. *Persons authorized to impose fines.*—(1) No fine may be imposed upon a person, employed by a Railway Administration, by any person other than the Railway Administration, or by a person holding an appointment named in the list referred to in clause (b) of rule 10.

(2) In the case of persons employed by a contractor, no fines may be imposed by any person other than the contractor :

Provided that a contractor who runs more than one establishment in two or more localities, and who employs not less than 50 persons in one locality, may with the approval of the Supervisor, delegate his power to fine to his representative in that locality.

14. *Procedure in imposing fines and deductions.*—(1) No fine shall be imposed on and no deductions made from a person employed by a Railway Administration except in accordance with the procedure laid down in the rules and regulations in force on the Railway Administration, and no fine shall be imposed or deduction made until the employed person has been given an opportunity of showing cause against such imposition or deduction.

(2) No fine shall be imposed on and no deduction for damage or loss shall be made from the wages of a person employed by a contractor until the person authorized to impose the fine or make the deduction has explained personally to the said person the act or omission or damage or loss, in respect of which the fine or deduction is proposed to be imposed and the amount of the fine or deduction which it is proposed to impose and has heard his explanation in the presence of at least one other person.

15. *Information to paymaster.*—The person imposing a fine or directing the making of a deduction for damage or loss shall (unless such person is a paymaster) at once inform the paymaster of all

particulars necessary for the completion of the register prescribed in Rule 3 or Rule 4, as the case may be.

16. Deductions under the proviso to sub-section (2) of section 9 — 1. No deduction under the proviso to sub-section (2) of section 9 shall be made from the wages of an employed person who is under the age of fifteen years or is a woman

(2) No such deduction shall be made from the wages of any employed person unless —

(a) there is provision in writing in the terms of the contract of employment requiring him to give notice of the termination of his employment, and

(i) the period of this notice does not exceed fifteen days or the wage-period, whichever is less, and

(ii) the period of this notice does not exceed the period of notice which the employer is required to give of the termination of that employment,

(b) this rule has been displayed in English and in the language of the majority of the employed persons at or near the main entrance of the factory, and at the specified place or specified places, concerned, and has been so displayed for not less than one month before the commencement of the absence in respect of which the deduction is made;

(c) a notice has been displayed at or near the main entrance of the factory, and at the specified place or specified places, concerned, giving the names of the persons from whom the deduction is proposed to be made, the number of days' wages to be deducted and the conditions (if any) on which the deduction will be remitted.

Provided that where the deduction is proposed to be made from all the persons employed in any departments or sections or factories of the railway, it shall be sufficient, in lieu of giving the names of the persons in such departments, sections, or factories to specify the departments, sections, or factories affected

(3) No such deduction shall exceed the wages of the person employed for the period by which the notice of termination of service given falls short of the period of such notice required by the contract of employment

(4) If any conditions have been specified in the notice displayed under clause (c) of sub-rule (2), no such deduction shall be made from any person who has complied with such conditions

17. Annual Return—Every employer in which during the year ending the 31st March any fines have been imposed or any deductions for breach of contract or for damage or loss have been made from wages, shall send a return in Form III so as to reach the Supervisor not later than the 15th of May following the end of the year to which it relates

18. Advances to persons employed by a contractor—(1) An advance of wages not already earned shall not ordinarily exceed the amount equal to two calendar months' wages of the employed person. In exceptional cases the amount of such advance may, with the previous sanction of the Supervisor, be made to the extent of four calendar months' wages

(2) The advance may be recovered in instalments by deductions from wages spread over not more than 12 months in the case of ordinary advance and 20 months in the case of special advance. In no case shall the amount of instalment exceed $\frac{1}{4}$ th of the wages earned in one month.

(3) The amounts of all advances sanctioned and the repayments thereof shall be entered in a register in Form V.

19. Procedure, costs and court fees.—The procedure to be followed by the authorities appointed under sub-section (1) of section 15 and the Courts mentioned in sub-section (1) of section 17, of the Act, the scales of costs which may be allowed in, and the amount of court-fees payable in respect of, proceedings under the Act to which these rules apply shall be such procedure, scales and amount as are from time to time prescribed by the Provincial Government in the exercise of its powers under the Act in that behalf for the Authority or Court concerned.

20. Abstracts—The abstracts of the Act and of the rules made thereunder to be displayed under section 25 shall be in Form IV.

21. Penalties.—Any breach of rules 3, 4, 5, 6, 8, 12, 15 and 17 of these rules shall be punishable with fine which may extend to two hundred rupees.

FORM III

DEDUCTIONS FROM WAGES

Return for the year ending 31st March, 19

1. Name of railway and postal address of headquarters
2. Total number of persons employed { Children
Adults
3. Total wages paid
4. Number of cases and amounts realized as—

	No of Cases	Amounts
(a) Fines		Rs.
(b) Deductions for damage or loss		
(c) Deductions for breach of contract		

5 Disbursements from fine fund—

	Amount	Purpose
	Rs.	

Signature
Designation

Dated

19 .

FORM IV

ABSTRACT OF THE PAYMENT OF WAGES ACT, 1936, AND THE RULES
MADE THEREUNDER*Whom the Act affects*

1. The Act applies to the payment of wages to persons in this factory receiving less than Rs 200 a month.
2. No employed person can give up by contract or agreement his rights under the Act

Definition of Wages

3 "Wages" means all remuneration payable to an employed person on the fulfilment of his contract of employment

It includes bonus and any sum payable for want of a proper notice of discharge

It excludes :—

- (a) the value of house-accommodation, supply of light, water, medical attendance, or other amenity or of any service excluded by the Central Government;
- (b) the employer's contribution to a pension or provident fund,
- (c) travelling allowance or concession or other special expenses entailed by the employment;
- (d) any gratuity payable on discharge.

Responsibility for and method of payment

4 The manager of the factory is responsible for the payment under the Act of wages to persons employed under him, and any contractor employing persons is responsible for payment to the persons he employs.

5 Wage-periods shall be fixed for the payment of wages at intervals not exceeding one month.

6. Wages shall be paid on a working day within 7 days of the end of the wage-period (or within 10 days if 1,000 or more persons are employed).

The wages of a person discharged shall be paid not later than the second working day after his discharge.

7. Payments in kind are prohibited.

Fines and Deductions

8. No deductions shall be made from wages except those authorised under the Act (*see* paragraphs 9—15 below).

9. (1) Fines can be imposed only for such acts and omissions as the employer may, with the previous approval of the Supervisor, specify by a notice displayed at or near the main entrance of the factory and after giving the employed person an opportunity for explanation.

(2) *Fines*—

- (a) shall not exceed half-an-anna in the rupee;
- (b) shall not be recovered by instalments, or later than sixty days of the date of imposition;
- (c) shall be recorded in a register and applied to such purposes beneficial to the employed persons as approved by the Supervisor;

10 (a) Deductions for absence from duty can be made only on account of the absence of the employed person at times when he should be working and such deductions must not exceed an amount which is in the same proportion to his wages for the wage-period, as the time he was absent in that period is to the total time he should have been at work.

(b) If ten or more employed persons, acting in concert, absent themselves without reasonable cause and without due notice, the deduction for absence can include wages for eight days in lieu of notice, but —

(1) no deduction for breaking a contract can be made from a person under 15 or a woman

(2) there must be a provision in writing which forms part of the contract of employment, requiring that a specific period of notice of intention to cease work not exceeding 15 days or the period of notice which the employer has to give to discharge a worker must be given to the employer and that wages may be deducted in lieu of such notice

(3) the above provision must be displayed at or near the main entrance of the factory

(4) no deduction of this nature can be made until a notice that this deduction is to be made has been posted at or near the main entrance of the factory

(5) no deduction must exceed the wages of the employed person for the period by which the notice he gives of leaving employment, is less than the notice he should give under his contract

11 Deductions can be made for damage to or loss of goods expressly entrusted to an employed person or for loss of money for which he is required to account, where such damage or loss is due to his neglect or default

Such deduction cannot exceed the amount of the damage or loss caused and can be made only after giving the employed person an opportunity for explanation

12 Deductions can be made, equivalent to the value thereof, for house accommodation, amenities, or services (other than tools and raw material) supplied by the employer provided these are accepted by the employed person as a part of the terms of his employment and have in the case of amenities and services been authorised by order of the Central Government

13 (a) Deductions can be made for the recovery of advances, or for adjustment of overpayment of wages.

(b) Advances made before the employment began can only be recovered from the first payment of wages for a complete wage-period but no recovery can be made of advances given for travelling expenses before employment began

(c) Advances of unearned wages can be made at the paymaster's discretion during employment

14. Deductions can be made for subscription to and for repayment of advances from any recognised provident fund

15 Deductions can be made for payments to co-operative societies approved by the Central Government or to the postal insurance, subject to any conditions imposed by the Central Government

Inspections

16 An Inspector can enter on any premises, and can exercise powers of inspection (including examination of documents and taking of evidence) as he may deem necessary for carrying out the purposes of the Act

Complaints of deductions or delays

17 (1) Where irregular deductions are made from wages, or delays in payment take place, an employed person can make an application in the prescribed form within 6 months to the Authority appointed by the Local Government for the purpose. An application delayed beyond this period may be rejected unless sufficient cause for the delay is shown.

(2) Any legal practitioner, official of a registered trade union, Inspector under the Act, or other person acting with the permission of the Authority can make the complaint on behalf of an employed person.

(3) A single application may be presented by, or on behalf of, any number of person belonging to the same factory the payment of whose wages has been delayed.

Action by the Authority

18 The Authority may award compensation to the employed person in addition to ordering the payment of delayed wages or the refund of illegal deductions.

If a malicious or vexatious complaint is made, the Authority may impose a penalty not exceeding Rs. 50 on the applicant and order that it be paid to the employer.

Appeal against the Authority

19 An appeal in the prescribed form against a direction made by the Authority may be preferred with 30 days in Madras, Bombay, Calcutta, to the Court of Small Causes and elsewhere to the District Court—

- (a) by the paymaster if the total amount directed to be paid exceeds Rs. 300,
- (b) by an employed person, if the total amount of wages withheld from him or his co-workers, exceeds Rs. 50,
- (c) by a person directed to pay a penalty for a malicious or vexatious application.

Punishments for breaches of the Act

20 Anyone delaying the payment of wages beyond the due date, or making any unauthorised deduction from wages is liable to a fine up to Rs. 500, but only if prosecuted with the sanction of the Authority or the appellate Court.

21 The paymaster who,—

- (1) does not fix a wage-period, or
- (2) makes payment in kind, or
- (3) fails to display at or near the main entrance of the factory this Abstract in English and in the language of the majority of the employed persons, or
- (4) breaks certain rules made under the Act, is liable to a fine not exceeding Rs. 200.

A complaint to this effect can be made only by the Inspector, or with his sanction.

PAYMENT OF WAGES (COAL MINES) RULES, 1948**Contents**

1. Title and application.
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PAYMENT OF WAGES (COAL MINES) RULES, 1949¹

In exercise of the powers conferred by sub-sections (2), (3) and (4) of section 26, read with section 24, of the Payment of Wages Act, 1936 (IV of 1936), the Central Government is pleased to make the following rules, the same having been previously published as required by sub-section (5) of the said section 26, namely:—

1. Title and Application.—(1) These rules may be called the Payment of Wages (Coal Mines) Rules, 1949.

¹ These Rule were published under Ministry of Labour Notification No Fac 52(5), dated the 15th July, 1949.

(2) These rules apply in respect of the payment of wages to persons employed in any coal mine either by the owner of the coal mine or by a contractor engaged by the owner.

2. Definitions—In these rules unless there is anything repugnant in the subject or context,—

- (a) "Act" means the Payment of Wages Act, 1936 (IV of 1936) ,
- (b) "Authority" means the Authority appointed under sub-section (1) of section 15 of the Act ;
- (c) "Court" means the court mentioned in sub-section (1) of section 17 of the Act ,
- (d) "deduction for breach of contract" means a deduction made in accordance with the provisions of the proviso to sub-section (2) of section 9 ,
- (e) "deduction for damage or loss" means a deduction made in accordance with the provisions of class (c) of sub-section (2) of section 7 ,
- (f) "coal mine" means any excavation where any operation for the purpose of searching for or obtaining coal has been or is being carried on, and includes all works, machinery, tramways and sidings, whether above or below ground, in or adjacent to or belonging to a coal mine, provided that it shall not include any part of such premises on which a manufacturing process is being carried on unless such process is a process for the making of coke ;
- (g) "Form" means a Form appended to these rules ,
- (h) "Inspector" means an inspector authorised by or under section 14 of the Act ;
- (i) "person employed" does not include any person to the payment of whose wages the Act does not apply ,
- (j) "Section" means a section of the Act ;
- (k) "paymaster" means the employer or other person or persons who may be nominated as such by the employer under clause (b) of section 3 and includes a contractor ;
- (l) "employer" means the owner of the coal mine and includes the manager or any other person responsible under section 3 of the Act for the payment of wages, and a contractor ,

(m) "contractor" means a person engaged under a contract by the owner of the coal mine for work on the coal mine and includes a sub-contractor,

(n) words and expressions defined in the Act shall have the same meaning as in the Act

3. Register of Fines—(1) In any coal mine where the employer has obtained approval under sub-section (1) of section 8 to a list of acts and omissions in respect of which fines may be imposed, the paymaster shall maintain a Register of Fines in Form I

(2) At the beginning of the Register of Fines, there shall be entered serially numbered the approved purpose or purposes on which the fines realised are to be expended.

(3) When any disbursements are made from the fines realised, a deduct entry of the amount so expended shall be made in the Register of Fines, and a voucher or receipt in respect of the amount shall be affixed to the Register. If more than one purpose has been approved, the entry of the disbursement shall also indicate the purpose for which it is made.

4. Register of deductions for damage or loss.—In every coal mine in which deductions for damage or loss are made, the paymaster shall maintain the Register required by sub-section (2) of section 10, in Form II.

5. Register of Wages—A Register of Wages shall be maintained by every employer in Form III

6. Maintenance of Registers—(1) A register required to be maintained by rules 3, 4, or 5 shall be preserved for a period of three years commencing from the date of the last entry made therein

(2) Every such register shall normally be maintained in English, but where it is maintained in any language other than English, a true translation thereof in English shall be available.

7. Places for displaying notices.—The Inspector shall specify such place or places in the coal mine as he thinks fit (hereinafter referred to as the "Specified place or places") for the display of notices, lists and rules under rules 8, 12 and 16.

8. Notice of dates of payment.—The paymaster shall display in a conspicuous place at or near the main entrance of the work place or places at the coal mine and at the specified place or places,

a notice in English and in the language of the majority of the persons employed at such place or places showing (i) for not less than two months in advance the class or classes in which wages are to be paid and (ii) the rates of wages and scales of allowances payable to persons employed in the coal mine concerned

9. Prescribed authority.—The Inspector shall be the prescribed authority competent to approve, under sub-section (1) of section 8, acts and omissions in respect of which fines may be imposed and, under sub-section (8) of section 8, the purposes to which the fines realised may be applied.

10. Application in respect of fines.—Every employer requiring the power to impose fines in respect of any acts and omissions on the part of employed persons shall send to the Inspector—

- (a) a list, in English, in duplicate, clearly defining such acts and omissions,
- (b) in cases where the employer himself does not intend to be the sole authority empowered to impose fines, a list, in duplicate, showing by virtue of office or otherwise, such members of his staff as may pass orders imposing fines and the class of establishment on which any such member may impose a fine

11. Approval of list of acts and omissions.—The Inspector may, on receipt of the list prescribed by clause (a) of rule 10, and after such enquiry as he considers necessary, pass orders in respect of the said list, either—

- (a) disapproving the list, or
- (b) approving the list in its original form or as amended by him, in which case such list shall be deemed to have been approved under sub-section (1) of section 8

Provided that no order disapproving or amending the list shall be passed unless the employer shall have been given an opportunity of showing cause in writing against such order.

12. Posting of list.—The employer shall display at or near the main entrance of the work place or places at the coal mine and at the specified place or places, a copy in English, together with a literal translation thereof, in the language of the majority of the persons employed at such coal mine or place, of the list approved under rule 11.

13. Persons authorised to impose fines—(1) No fine may be imposed upon a person employed in a coal mine by any person other than the employer or by a person included in the list referred to in sub-rule (b) of rule 10.

(2) In the case of persons employed by a contractor, no fines may be imposed by any person other than the contractor

Provided that a contractor who runs more than one establishment in two or more localities, and who employs not less than 50 persons in one locality, may, with the approval of the Inspector, delegate his power to fine to his representative in that locality

14. Procedure in imposing fines and deductions—(1) No fine shall be imposed on and no deductions shall be made from the wages of any person employed in a coal mine except in accordance with the procedure laid down in the rules and regulations in force in the mine, and no fine shall be imposed or deduction made from the wages until the employed person has been given an opportunity of showing cause against such imposition or deduction.

(2) No fine shall be imposed on and no deduction for damage or loss shall be made from the wages of a person employed by a contractor until the person authorised to impose the fine or make the deductions has explained personally to the said person the act or omission, or damage or loss in respect of which the fine or deduction is proposed to be imposed or made and the amount of the fine or deduction, which it is proposed to impose or make and has heard his explanation in the presence of at least one other person.

15. Information to the paymasters—The person imposing a fine or directing the making of a deduction for damage or loss shall (unless such person is the paymaster) at once inform the paymaster of all particulars necessary for the completion of the register prescribed by rule 3 or rule 4, as the case may be.

16. Deductions under the proviso to sub-section (2) of section 9

(1) No deduction under the proviso to sub-section (2) of section 9 of the Act shall be made from the wages of an employed person who is under the age of fifteen years or is a woman.

(2) No such deduction shall be made from the wages of any employed person unless—

(a) there is a provision in writing in the terms of the contract of employment requiring him to give notice of the termination of his employment ; and

- (d) the period of the notice does not exceed fifteen days or the wage period, whichever is less, and
- (e) the period of the notice does not exceed the period of notice which the employer is required to give of the termination of the employment,
- (b) This rule has been displayed in English and in the language of the majority of the employed persons at or near the main entrance of the work place or places at the coal mine, and at the specified place or places concerned, and has been so displayed for not less than one month before the commencement of the absence in respect of which the deduction is made,
- (c) at least one week before such deduction is made, a notice has been displayed at or near the main entrance of the work place or places at the coal mine, and at the specified place or places concerned, giving the names of the persons from whom deduction is proposed to be made, the number of days' wages to be deducted and the conditions (if any) on which the deduction will be remitted:

Provided that where the deduction is proposed to be made from all the persons employed in any department or section of the coal mine, it shall be sufficient, in lieu of giving the names of the persons in such department or section of the coal mine, to specify the department or section affected

(3) No such deduction shall exceed the wages of the person employed for the period by which the notice of termination of service given falls short of the period of such notice required by the contract of employment

(4) If any conditions have been specified in the notice displayed under clause (c) of sub-rule (2), no such deduction shall be made from any person who has complied with such conditions

17. *Measurement of the amount of work done by piece workers*

In the case of piece-workers, the surveyor who measures the work for such workers, shall at the time of measurement, hand over to the miners a statement in writing containing the measurement figures immediately after taking the measurements in the presence of the workers concerned. A record of measurement shall also be maintained in a measurement book of permanent nature and at the close

of the wage period a list of measurements shall be written up under the signature or thumb impression of the workers and a copy thereof shall be given to the workers also. In case of disputes regarding measurements the surveyor shall, as far as possible, settle the dispute on the spot

18. Annual return—Every employer shall send a return in Form IV so as to reach the Inspector not later than the 15th of May following the end of the year to which it relates.

19. Advances to persons employed by a Contractor—

(1) An advance of wages not already earned shall not ordinarily exceed the amount equal to two calendar months' wages of the employed person. In exceptional circumstances the amount of such advance may, with the previous sanction of the Inspector, be made to the extent of four calendar months' wages.

(2) The advance may be recovered in instalments by deductions from the wages spread over not more than twelve months in the case of an ordinary advance and twenty four months in the case of an advance granted in exceptional circumstances. In no case shall the amount of an instalment exceed one-fourth of the wages earned in one month

(3) The amount of all advances sanctioned and the repayments thereof shall be entered in a register in Form V which shall be maintained in English and in the language spoken by the majority of workers.

20. Procedure, costs and court fees.—The procedure to be followed by the authorities appointed under sub-section (1) of section 15 and the Courts mentioned in sub-section (1) of section 17 of the Act, the scales of costs which may be allowed in, and the amount of court fees payable in respect of proceedings under the Act to which these rules apply shall be such procedure, scales and amounts as are from time to time prescribed by the Provincial Government in the exercise of its powers under the Act in that behalf for the authority or court concerned.

21. Abstracts.—The abstracts of the Act and of the rules made thereunder to be displayed under section 25 shall be in Form VI.

22. Penalties—Any breach of Rules 3, 4, 5, 6, 8, 12, 15 or 18 of these rules shall be punishable with fine which may extend to two hundred rupees.

PAYMENT OF WAGES (COAL MINES) RULES, 1949

FORM I

REGISTER OF FINES

Cut Mines

[illegible]

FORM II

REGISTER OF DEDUCTIONS FOR DAMAGE OR LOSS CAUSED TO THE EMPLOYER
BY THE NEGLIGENCE OR DEFAULT OF THE EMPLOYED PERSONS

Coal Mine.....

Serial No.	Name.	Father's Name.	Occupation.	Damage or loss caused.	Whether worker showed case against deduction or not. If so, enter date.	Date and amount of deduction imposed.	Nos. of instalments, if any.	Date on which total amount realised.	Remarks.
1	2	3	4	5	6	7	8	9	10

FORM III

REGISTER OF WAGES

All entries to be made in English

Entries are to be made against each individual worker, and not for a gang of workmen.

Entries for each category of workers to be made separately

Serial	Number		Names	Occupation.	Days worked† No. of units worked Th S M T W F S 1, 2, 3 28, 29, 30, 31,†	Total	Rate of basic wages	Basic Wages	
	Identification number Account by the allotted by Coal Mines Provi- dent Fund Com- missioner							Ordinary	Special
1	2	3	4	5	6	7	8	9	

Lead and Lift	Dearness allowance		Other cash payments.	Total amount earned	Workmen's contribution to provident fund	Employers' contribution to provident fund	Total deduction made	Net amount payable	Signature or thumb impression or remark
10	11	12	13	14	15	16	17	18	19

† In the case of time-rated workers only attendance or absence should be marked.

† In the case of piece workers the number of units worked should be entered specifying the unit of work. Example. Tubs or Khudis or Gades of coal raised or loaded with its equivalent capacity.

‡ In the case of monthly paid workers.

§ If the thumb impression is not taken the signature of the person supervising the payment should be taken.

FORM IV

DEDUCTIONS FROM WAGES

Return for the year ending 31st March 194 .

1. Name of Coal Mine and Postal Address.
2. Total number of persons employed. $\left\{ \begin{array}{l} \text{Men} \\ \text{Women} \end{array} \right.$
3. Total wages paid. $\left\{ \begin{array}{l} \text{Men} \\ \text{Women} \end{array} \right.$
4. Number of cases and amounts realised as

	No. of Cases	Amount
(a) Fine.....		Rs.
(b) Deductions for damage or loss.....		
(c) Deductions for breach of contract.....		

5. Disbursements from fine fund—

	Amount	Purpose
	Rs.	

* The total number of persons employed means the average daily number of persons employed obtained by dividing the aggregate number of attendances during the year by the number of working days.

Signature

Dated

194 .

Designation

REGISTER OF ADVANCES MADE TO IMPROVED PERSONS

Name of Contractor

[illegible]

ABSTRACT OF THE PAYMENT OF WAGES ACT, 1936, AND THE
RULES MADE THEREUNDER

Whom the Act affects

1 The Act applies to the payment of wages to persons in Coal Mines receiving less than Rs 200 a month

2 No employed person can give up by contract or agreement his rights
under the Act

Definition of Wages

3. 'Wages' means all remuneration payable to an employed person on the fulfilment of his contract of employment

It includes bonus and any sum payable for want of a proper notice of discharge

It excludes —

- (a) the value of house-accommodation, supply of light, water, medical attendance, or other amenity or of any service excluded by the Central Government
- (b) the employer's contribution to a pension or provident fund,
- (c) travelling allowance or concession or other special expenses entailed by the employment,
- (d) any gratuity payable on discharge

Responsibility for and method of payment

4 The employer is responsible for the payment under the Act of wages to persons employed under him, and any contractor employing persons is responsible for payment to the persons he employs

5 Wage-periods shall be fixed for the payment of wages at intervals not exceeding one month

6 Wages shall be paid on a working day within 7 days of the end of the wage-period (or within 10 days if 1,000 or more persons are employed)

The wages of a person discharged shall be paid not later than the second working day after his discharge.

7 Payments in kind are prohibited

Fines and deductions

8 No deductions shall be made from wages except those authorised under the Act (see paragraphs 9—15 below)

9 Fines can be imposed only for such acts and omissions as the employer may, with the previous approval of the Inspector, specify by a notice displayed at or near the main entrance of the work place or places at the coal mine and after giving the employed person an opportunity for explanation

10 (a) Deductions for absence from duty can be made only on account of the absence of the employed person at times when he should be working and such deductions must not exceed an amount which is in the same proportion to his wages for the wage-period, as the time he was absent in that period is to the total time he should have been at work

(b) If ten or more employed persons, acting in concert, absent themselves without reasonable cause and without due notice, the deduction for absence can include wages for eight days in lieu of notice, but :—

- (1) no deduction for breaking a contract can be made from a person under 15 or a woman,
- (2) there must be a provision in writing which forms part of the contract of employment, requiring that a specific period of notice of intention to cease work not exceeding 15 days or the period of notice which the employer has to give to discharge a worker, must be given to the employer and that wages may be deducted in lieu of such notice,
- (3) the above provision must be displayed at or near the main entrance of the work place or places at the coal mine or work place,

(4) no deduction of this nature can be made until a notice has been given, and this deduction is to be made has been posted at or near the entrance of the work place or places in the establishment or work place,

(5) no deduction must exceed the wages of the employed person for the period by which the notice he gives of leaving employment, is less than the notice he should have given under his contract.

11 Deductions can be made for damage to or loss of goods expressly entrusted to an employed person or for loss of money for which he is responsible to account, where such damage or loss is due to his neglect or default.

Such deduction cannot exceed the amount of the damage or loss caused, and can be made only after giving the employed person an opportunity for explanation.

12 Deductions can be made, equivalent to the value thereof, for house accommodation, amenities, or services (other than tools and raw material) supplied by the employer provided these are accepted by the employed person as a part of the terms of his employment and have in the case of amenities and services been authorised by order of the Central Government.

13 (a) Deductions can be made for the recovery of advances, or for adjustment of overpayment of wages.

(b) Advances made before the employment began can only be recovered from the first payment of wages for a complete wage-period but no recovery can be made of advances given for travelling expenses before employment began.

(c) Advances of unearned wages can be made at the paymaster's discretion during employment.

14 Deduction can be made for subscription to and for repayment of advances from any recognised provident fund.

15 Deductions can be made for payments to co-operative societies approved by the Central Government or to the postal insurance, subject to any conditions imposed by the Central Government.

Inspections

16 An Inspector can enter on any premises and can exercise powers of inspection (including examination of documents and taking of evidence) as he may deem necessary for carrying out the purposes of the Act.

Complaints or deduction or delays

17 (a) Where irregular deductions are made from wages, or delays in payment take place, an employed person can make an application in the prescribed form within 6 months to the Authority appointed by the Provincial Government for the purpose. An application delayed beyond this period may be rejected unless sufficient cause for the delay is shown.

(b) Any legal practitioner, official of a registered trade union, Inspector under the Act, or other person acting with the permission of the Authority can make the complaint on behalf of an employed person.

(c) A single application may be presented by, or on behalf of, any number of persons belonging to the same coal mine the payment of whose wages has been delayed.

Action by the Authority

18 The Authority may award compensation to the employed person in addition to ordering the payment of delayed wages or the refund of illegal deductions.

If a malicious or vexatious complaint is made, the Authority may impose a penalty not exceeding Rs. 50 on the applicant and order that it be paid to the employer.

Appeal against the Authority

19. An appeal in the prescribed form against a direction made by the Authority may be preferred within 30 days in Calcutta to the Court of Small Causes and elsewhere to the District Court—

- (a) by the employer if the total amount directed to be paid exceeds Rs. 300;
- (b) by an employed person, if the total amount of wages withheld from him or his co-workers, exceeds Rs. 50;
- (c) by a person directed to pay a penalty for a malicious or vexatious application.

Punishments for breaches of the Act

20. Anyone delaying the payment of wages beyond the due date, or making any unauthorised deduction from wages is liable to a fine upto Rs. 500, but only if prosecuted with the sanction of the Authority or the appellate Court.

21. The Employer who,—

- (1) does not fix a wage-period, or
- (2) makes payment in kind, or
- (3) fails to display at or near the main entrance of the work place or places at the coal mine or work place this Abstract in English and in the language of the majority of the employed persons, or
- (4) breaks certain rules made under the Act, is liable to a fine not exceeding Rs. 200.

A complaint to this effect can be made only by the Inspector or with his sanction.

MINIMUM WAGES LEGISLATION

Minimum Wages.

The need for fixing minimum wages for industrial labour has everywhere been recognised in modern states, specially in sweated industries and in industries where workers are not organised and where their position is exploited by the employers. In England legislation was passed in 1909 for fixing minimum wages in a certain group of industries. The first minimum wage legislation was undertaken in 1912 in U. S. A. In France the minimum wage laws were passed in 1915

The International Labour Conference adopted Minimum Wage-Fixing Machinery Convention (Convention No. 26¹) in 1928. This Draft Convention laid down that wage-fixing machinery should be set up in those trades wherein no arrangements exist for the effective regulation of wages by collective agreement or otherwise wages are exceptionally low.

Minimum Wage Regulation in India.

The question of fixing minimum wages was felt in India as early as the beginning of the twenties ; but the Government of India considered the adoption of such a measure as impracticable and could not take steps to do something practical in this connection. The necessity of fixing minimum wages for labour is all the more important in India, as the labour is very cheap and unorganised and lacks the habit of collective bargaining in their demand for a living wage. India comprises different provinces in which conditions of employment, wages and demand and supply of labour are divergent. Wages vary from province to province, from industry to industry and from occupation to occupation. The question of standardisation of wage rates for the different occupations, regulation of wages and fixation of minimum rates of wages constitute the most important problems relating to industrial labour in India. This question is also closely co-related with the maintenance of industrial peace, as wages represent the main point round which majority of industrial disputes are centred.

Royal Commission on Labour.

The Commission considered the question of fixing minimum wages and recommended that necessary investigation should be made

¹ International Labour Code, 1939 (Montreal, 1941).

in respect of small industries like bidi making, wool-cleaning, mica factories, shellac manufacturing and tanning, for determining the necessity and possibility of minimum wage-fixing machinery and that legislation should be undertaken to set up such machinery if the investigation report recommends its desirability and practicability. The Commission recommended the establishment of statutory Wage Board for fixing wages in tea plantations in Assam.¹

Different Provincial Labour Enquiry Committees.²

The Royal Commission commented on the inadequacy of statistical materials on wages. Cawnpore Labour Enquiry Committee, Bombay Textile Labour Enquiry Committee, Bihar Labour Enquiry Committee, C. P. and Berar Textile Labour Enquiry Committee and U. P. Labour Enquiry Committee in course of their enquiries surveyed the wage level of workers engaged in various types of industrial undertakings and advocated fixation of minimum wages. The Bombay Textile Labour Enquiry Committee suggested the following four different types of agencies by which minimum wages can be determined:—enactment, arbitration court, general board and special trade board. These four methods were discussed in details by Dr. D. R. Gadgil in his Patna University Banaili Readership Lectures.³

Labour Investigation Committee.

The Labour Investigation Committee (popularly known as Rege Committee) appointed by the Government of India early in 1944 in pursuance of an unanimous resolution of the Tripartite Labour Conference passed in September, 1943, collected a huge mass of valuable statistical data relating to wages and earnings of all industrial and allied categories of employment throughout British India and Native States. The Committee submitted Reports on *ad hoc* surveys of some 35 industries and also a Main Report.⁴ The

¹ Report of Royal Commission on Labour in India (Delhi, 1931), pages 214 and 394.

² Reports of Cawnpore Labour Enquiry Committee, 1938; Bombay Textile-Labour Enquiry Committee, 1939 and 40; Bihar Labour Enquiry Committee, 1940; C. P. and Berar Textile Labour Enquiry Committee, 1940 and U. P. Labour Enquiry Committee, 1946-48.

³ Regulation of Wages and other Problems of Industrial Labour in India, Gokhale Institute of Politics and Economics, 1945.

⁴ For Terms of Reference and Different Industries surveyed, see Main Report and Reports of Labour Investigation Committee, (Delhi, 1946).

position in respect of wages and earnings in various industries have been discussed in details in these Reports and their surveys reveal the low level of remuneration earned by labour in India in practically all industries excepting the cotton mill industry in Ahmedabad where wages have been standardised. The Committee concluded: Our surveys, however, will bring home to any reader the fact that the basic wage level in most Indian industries is extremely low. As a matter of fact, considering the question broadly, little or nothing has been done by the principal industries in this country to revise in an upward direction the basic wages of their operatives except where the employers have been forced either by Government or by labour.

Central Pay Commission.¹

The Government of India appointed a Central Pay Commission on 10th May, 1946 to enquire into and report on the conditions of service of Central Government employees with particular reference, amongst others, to the structure of their pay and standard of remuneration with the object of achieving to the fullest degree possible rationalisation and the principles on which remuneration of industrial workers and daily rated employees should be based.

The Commission recommended the adoption of uniform scales of pay and dearness allowance all over India with house rent allowance and compensatory allowance in large towns and industrial centres. The scales of pay have been computed on the basis that when the cost of living will stabilise, they will be from 60% to 75% higher than the pre-war level. The Commission recommended the initial pay of a Class I officer at Rs. 350/- per month and fixation of Rs. 2,000/- as the maximum monthly salary of public servants in India, except for a few select posts. It also recommended the payment of dearness allowance in order to bring the total emoluments to correspond with the present day cost of living and suggested a "slab system" under which the dearness allowance would increase or decrease according to the rise or fall of cost of living indices. The Commission recommended that as far as practicable a fair relativity should be maintained between rates of pay of certain classes of civil servants and comparable outside rates.

The Commission recommended that the Government should take some step forward in giving effect to the living wage principle

¹ Report of the Central Pay Commission, Delhi, 1947.

in dealing with the employees who are virtually on the "poverty line" and came to the conclusion that in no case a man's wage should be less than a living wage. This living wage would be Rs. 55/- (Rs. 30/- as basic pay plus Rs. 25/- as dearness allowance) for working class family and Rs. 90/- (Rs. 55/- as basic pay plus Rs. 35/- as dearness allowance) in the case of middle class employees, calculated on the cost of living as it stood in the beginning of 1947, apart from house rent allowance in big cities and certain other benefits. It also recommended that the daily rated system for labour should be reduced to a minimum and that the higher groups of labour (including supervisory staff) should be classified into semi-skilled, skilled and highly skilled according to trade tests. The Report states, "it will be convenient if each industrial establishment constitutes a Board, say of three of its officers, to determine the classification which should be reviewed, from time to time." According to Dr. R. K. Mukherjee,¹ the living wage of a worker is Rs. 30/- on the basis of the prices in 1931-32.

Acceptance of Recommendation by Government.

The Government of India have accepted the basic pay structure recommended by the Commission as well as the uniform scales of pay, dearness allowance, house rent and compensatory allowance in costlier cities. The amount of dearness allowance will be subject to alterations, upwards or downwards should the cost of living vary substantially. The Government have also accepted the living wages for working class family and middle class family. Rs. 55/- including dearness allowance at Rs. 25/- per month, will constitute the lowest wage for a Central Government servant at the present cost of living index with the exception of unskilled workers under 21 years of age who will draw one rupee less for each year by which they fall short of 21. In accepting the recommendations the Government estimates an additional cost of Rs. 30 crores per annum.

The basic wages and allowances fixed by the Central Government for ensuring a living wage to their employees, will be looked upon as a model for Provincial Governments and private enterprise in their respective spheres.

Minimum Wages Bill, 1946.

The question of establishing statutory wage-fixing machinery was discussed at the third meeting of the Standing Labour Com-

¹ The Indian Working Class—Dr R. K. Mukherjee (Bombay, 1945).

mittee in May, 1943, in the Labour Conference in September, 1943 and again at the fourth meeting of the Standing Labour Committee held on 25th and 26th January, 1944 and at the Sixth Labour Conference held on 27th and 28th October, 1944. In the previous discussions it was suggested that fixation of statutory minimum wages can not be undertaken unless reliable and extensive materials regarding wages and earnings in various industries are available. Setting up of Regional Wage Boards for fixing statutory minimum wages for industrial labour was also discussed and general consensus of opinion was in its favour.

The Government of India introduced the Minimum Wages Bill in the Indian Legislative Assembly on the 11th April, 1946 for setting up machinery for fixing minimum wages by Provincial Governments in respect of employments where sweated labour is most prevalent or where there is chance of exploitation of labour, by mentioning these industries in the Schedule with power to add more categories of employment in the Schedule. The Bill provides for appointment of Advisory Committees and Advisory Boards with equal representation of employers and workmen to advise the Government in fixing the minimum wages. The Bill was referred to the Select Committee in March, 1947 and the Committee was reconstituted in the first session of the Dominion Legislature in November, 1947. The Committee made certain amendments and added several new clauses in the Bill and submitted the Report on the 28th January, 1948. In piloting the Bill in the Dominion Legislature, the Labour Minister pointed out that no industry, including agriculture had a right to exist if it entailed the exploitation of the working classes and could not afford them a minimum wage. The Bill was passed by the Dominion Legislature on the 9th February, 1948.

Minimum Wages Act, 1948 (XI of 1948).

This legislation is the first of its kind in affording a great measure of income security to industrial labour in India. It will take a few years to assess the practical effects of the Act. The Act, if properly enforced, will upgrade the level of wages of the workers in ~~unorganised industries~~, particularly agricultural labour whose bargaining power is weak and will help to bring an era of rising income and prosperity. The Act empowers the Provincial or Central Government, as the case may be, to fix minimum rates of wages in

respect of scheduled employments, after due enquiries. The present schedule includes employment in (1) woollen carpet making or shawl weaving establishment, (2) any rice mill, flour mill or dal mill, (3) any tobacco (including bidi making) manufactory, (4) plantation *viz*, estate maintained for the purpose of growing cinchona, rubber, tea or coffee, (5) oil mill, (6) under any local authority, (7) road and building constructions, (8) stone breaking or stone crushing, (9) lac industry, (10) mica works, (11) public motor transport, (12) tanneries and leather manufactory and (13) agriculture including farming, dairy, horticulture, poultry, forestry or timber operations.

Enforcement of the Act.

Minimum rates of wages in respect of all industries excepting agriculture are to be fixed within two years from the date of the commencement of the Act and in the case of agriculture, this is to be done within three years.

Fixing of Minimum Rates of Wages.

The Government may fix different minimum rates of wages for time work, piece work, overtime work for different scheduled employments, for different class of work in the same employment, for adults, adolescent, children and apprentices and for different localities. The minimum rate fixed or revised may consist of a basic rate of wages and a special allowance, a basic rate of wages with or without the cost of living allowance and cash value of concessions for supply of essential commodities and an all-inclusive rate.

Procedure to be followed.

In fixing the minimum rates of wage of any scheduled employment, the Government may appoint a Committee to hold enquiries with Sub-Committees for different localities to assist it and publish its proposals regarding the rates of wages to be paid, giving two months time for filing objections or representation. These minimum rates shall come into force on the expiry of three months from its publication in the official Gazette.

Revision of Minimum Rate. 2

The rate of wages so fixed may be reviewed at any time not exceeding five years and revised, if necessary. But before revising such rates, the Government should appoint Advisory Committees

and Sub-Committees to enquire into the conditions of employment and to advise the Government in making revision. The revised rate shall come into force three months after publication.

Advisory Board.

The Government may appoint Advisory Board for co-ordinating the work of the Committees, Sub-Committees, Advisory Committees and Advisory Sub-Committees and for advising the Government for fixing and revising the minimum rates of wages.

Central Advisory Board.

The Central Government may appoint a Central Advisory Board for advising the Central and Provincial Governments in the matter of fixing and revising the minimum rates of wages and for co-ordinating the work of the Advisory Boards. The Central Advisory Board will consist of an equal number of the representatives of employers and employees in the scheduled employments and independent persons not exceeding one-third of the total number of members, all nominated by the Central Government.

Composition of Committee, Advisory Committee and Advisory Board.

The Committee, Sub-Committee, Advisory Committee, Advisory Sub-Committee and Advisory Board will consist of equal number of employers' and workers' representatives and independent persons not exceeding one-third of the total number of members.

Claims for less payment of minimum rate.

Provision has been made to set up machinery to decide claims arising out of payment of less than the minimum rates of wages. The Commissioner for Workmen's Compensation, Officer with experience as a Judge of Civil Court or stipendiary Magistrate may be appointed to be the Authority to hear and decide claims.

Exemptions and exceptions.

The Government may exempt disabled employees or any other class of employees or the locality in which the scheduled employment is carried on, from the operation of the Act.

Maintenance of Registers and Records.

The employers shall maintain registers and records giving particulars of employees, work performed by them, wages paid to them and receipts given to them. The employer shall keep exhibited notices in prescribed forms containing prescribed particulars. The Government may provide for issue of wage books or wage slips for the employees in the scheduled employment and prescribe the manner in which entry shall be made and authenticated in wage books or wage slips.

Penalty.

An employer infringing important provisions of the Act or rules, is liable to be punished with imprisonment of either description for a period which may exceed to six months or with fine which may exceed to Rs. 500/- or with both.

Minimum Wages (Central Advisory Board) Rules.

The Draft Rules laying down the constitution of the Board and disposal of business by the Board, have been published on 4th May, 1949. The Board will meet at least twice a year and consist of a Chairman, two representing the Central Government, one person representing each Provincial Government, 24 persons representing employers and employees in the scheduled employment in equal proportion.

Report of the Committee on Fair Wages.

In pursuance of the Central Government Resolution on Industrial Policy, a Central Labour Advisory Council was appointed for advising Government on fair wages, fair remuneration to capital and conditions of labour. The Council in its first session held in November, 1948 appointed a Committee to enquire into and report on the subject of fair wages to labour. The Committee submitted the Report in June, 1949, which was accepted by the representatives of the employers and labour.

The Report was discussed in the meeting of the Central Labour Advisory Council on the 29th July, 1949 and was unanimously adopted. A Bill incorporating the recommendations of the Committee will be introduced in the Dominion Parliament.

MINIMUM WAGES ACT, 1948 (XI OF 1948)

Arrangement of Sections

1. Short title and extent.
2. Interpretation.
3. Fixing of minimum rates of wages.
4. Minimum rate of wages.
5. Procedure for fixing minimum wages.
6. Advisory Committees and Sub-committees.
7. Advisory Board.
8. Central Advisory Board.
9. Composition of Committees, etc.
10. Procedure for revision of minimum rates of wages.
11. Wages in kind.
12. Payment of minimum rates of wages.
13. Fixing hours for a normal working day, etc.
14. Overtime.
15. Wages of worker who works for less than normal working day.
16. Wages for two or more classes of work.
17. Minimum time rate wages for piece work.
18. Maintenance of registers and records.
19. Inspectors.
20. Claims.
21. Single application in respect of a number of employees.
22. Penalties and procedure.
23. Exemption of employer from liability in certain cases.
24. Bar of suits.
25. Contracting out.
26. Exemptions and exceptions.
27. Power of Provincial Government to add to Schedule.
28. Power of Central Government to give directions.
29. Power of the Central Government to make rules.
30. Power of appropriate Government to make rules.
Schedule.

MINIMUM WAGES ACT, 1948 (XI OF 1948)¹

An Act to provide for fixing minimum rates of wages in certain employments.

Whereas it is expedient to provide for fixing minimum rates of wages in certain employments ;

It is hereby enacted as follows :—

1. Short title and extent.—(1) This Act may be called the Minimum Wages Act, 1948.

(2) It extends to all the Provinces of India.

2. Interpretation.—In this Act, unless there is anything repugnant in the subject or context,—

(a) “adult”, “adolescent” and “child” have the meanings respectively assigned to them in section 2 of the Factories Act, 1934 (XXV of 1934) ;

(b) “appropriate Government” means—

(i) in relation to any scheduled employment carried on by or under the authority of the Central Government, by the Federal railway authority, or a railway company operating a Federal railway or in relation to a mine, oilfield or major port, or any corporation established by an Act of the Central Legislature, the Central Government ; and

(ii) in relation to any other scheduled employment, the Provincial Government ;

(c) “competent authority” means the authority appointed by the appropriate Government by notification in its official Gazette to ascertain from time to time the cost of living index number applicable to the employees employed in the scheduled employments specified in such notification ;

(d) “cost of living index number” in relation to employees in any scheduled employment in respect of which minimum rates of wages have been fixed, means the index number ascertained and declared by the competent authority by notification in the official Gazette to be

¹ For Statement of Objects and Reasons, see Gazette of India, Part V, dated 20th April, 1946, and for the Report of the Select Committee, *ibid.* 7th February, 1948.

the cost of living index number applicable to employees in such employment ;

- (e) "employer" means any person who employs, whether directly or through another person, or whether on behalf of himself or any other person, one or more employees in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, and includes, except in sub-section (3) of section 26,—
- (i) in a factory where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person named under clause (e) sub-section (1) of section 9 of the Factories Act, 1934 (XXV of 1934), as manager of the Factory ,
 - (ii) in any scheduled employment under the control of any Government in India in respect of which minimum rates of wages have been fixed under this Act, the person or authority appointed by such Government for the supervision and control of employees or where no person or authority is so appointed, the head of the Department ;
 - (iii) in any scheduled employment under any local authority in respect of which minimum rates of wages have been fixed under this Act, the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the chief executive officer of the local authority ;
 - (iv) in any other case where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person responsible to the owner for the supervision and control of the employees or for the payment of wages ;
- (f) "prescribed" means prescribed by rules made under this Act ;
- (g) "scheduled employment" means an employment specified in the Schedule, or any process or branch of work forming part of such employment ;

(c) "wages" means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, but does not include—

- (i) the value of
 - (a) any house-accommodation, supply of light, water, medical attendance, or
 - (b) any other amenity or any service excluded by general or special order of the appropriate Government,
- (ii) any contribution paid by the employer to any Pension Fund or Provident Fund or under any scheme of social insurance,
- (iii) any travelling allowance or the value of any travelling concession,
- (iv) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment, or
- (v) any gratuity payable on discharge;
- (d) "employee" means any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical, in a scheduled employment in respect of which minimum rates of wages have been fixed; and includes an out-worker to whom any articles or materials are given out by another person to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of the trade or business of that other person where the process is to be carried out either in the home of the out-worker or in some other premises not being premises under the control and management of that other person; and also includes an employee declared to be an employee by the appropriate Government; but does not include any member of the armed forces of the Crown.

3. Fixing of minimum rates of wages.—(1) The appropriate Government shall in the manner hereinafter provided,—

- (a) fix, before the expiry of three years in the case of an employment specified in Part II of the Schedule, or two

years in any other case, from the commencement of this Act or, as the case may be, from the date of the notification under section 27 including the employment in the Schedule, the minimum rates of wages payable to employees employed in all scheduled employments ;

- (b) review at such intervals as it may think fit, such intervals not to exceed five years, the minimum rates of wages so fixed and revise the minimum rates, if necessary

Provided that the appropriate Government shall not be required to fix minimum rates of wages in respect of any scheduled employment in which there are in the whole Province less than one thousand employees engaged in such employment.

(2) The appropriate Government may fix—

- (a) a minimum rate of wages for time work (hereinafter referred to as “a minimum time rate”) ;
- (b) a minimum rate of wages for piece work (hereinafter referred to as “a minimum piece rate”) ;
- (c) a minimum rate of remuneration to apply in the case of employees employed on piece work for the purpose of securing to such employees a minimum rate of wages on a time work basis (hereinafter referred to as “a guaranteed time rate”) ;
- (d) a minimum rate (whether a time rate or a piece rate) to apply in substitution for the minimum rate which would otherwise be applicable, in respect of overtime work done by employees’ (hereinafter referred to as “overtime rate”).

(3) In fixing or revising minimum rates of wages under this section,—

- (a) different minimum rates of wages may be fixed for—
 - (i) different scheduled employments ;
 - (ii) different classes of work in the same scheduled employment ;
 - (iii) adults, adolescents, children and apprentices ;
 - (iv) different localities ;
- (b) minimum rates of wages may be fixed by the hour, by the day or by any larger wage period as may be prescribed :

Provided that where any wage-periods have been fixed under section 4 of the Payment of Wages Act, 1936 (IV of 1936), minimum wages shall be fixed in accordance therewith.

4. Minimum rate of wages.—(1) any minimum rate of wages fixed or revised by the appropriate Government in respect of scheduled employments under section 3 may consist of—

- (i) a basic rate of wages and a special allowance at a rate to be adjusted, at such intervals and in such manner as the appropriate Government may direct, to accord as nearly as practicable with the variation in the cost of living index number applicable to such workers (hereinafter referred to as the "cost of living allowance") ; or
- (ii) a basic rate of wages with or without the cost of living allowance, and the cash value of the concessions in respect of supplies of essential commodities at concession rates, where so authorised ; or
- (iii) an all-inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of the concessions, if any.

(2) The cost of living allowance and the cash value of the concessions in respect of supplies of essential commodities at concession rates shall be computed by the competent authority at such intervals and in accordance with such directions as may be specified or given by the appropriate Government.

5. Procedure for fixing minimum wages.—(1) In fixing minimum rates of wages in respect of any scheduled employment for the first time under this Act, the appropriate Government shall either—

- (a) appoint a committee to hold enquires and advise it in this behalf with such sub-committees for different localities as it may deem expedient to appoint to assist such committee, or
- (b) by notification in the official Gazette, publish its proposals for the information of persons likely to be affected thereby and specify a date, not less than two months from the date of the notification, on which the proposals will be taken into consideration.

(2) After considering the advice of the committee appointed under clause (a) of sub-section (1), or as the case may be, all representations received by it before the date specified in the notification under clause (b) of that sub-section, the appropriate Government shall, by notification in the official Gazette, fix the minimum rates of wages in respect of each scheduled employment, and unless such notification

otherwise provides, it shall come into force on the expiry of three months from the date of its issue.

6. Advisory Committees and Sub-committees.—For the purpose of revising minimum rates of wages fixed under this Act, the appropriate Government shall appoint as many advisory committees and sub-committees as it considers necessary to inquire into the conditions prevailing in any scheduled employment and to advise the appropriate Government in making such revision in respect of that employment.

7. Advisory Board.—For the purpose of co-ordinating the work of Committees, Sub-committees, Advisory Committees and Advisory Sub-committees appointed under sections 5 and 6 and advising the appropriate Government generally in the matter of fixing and revising minimum rates of wages, the appropriate Government shall appoint an Advisory Board.

8. Central Advisory Board.—(1) For the purpose of advising the Central and Provincial Governments in the matters of the fixation and revision of minimum rates of wages and other matters under this Act and for co-ordinating the work of the Advisory Boards, the Central Government shall appoint a Central Advisory Board

(2) The Central Advisory Board shall consist of persons to be nominated by the Central Government representing employers and employees in the scheduled employments, who shall be equal in number, and independent persons not exceeding one-third of its total number of members; one of such independent persons shall be appointed the Chairman of the Board by the Central Government.

9. Composition of Committees, etc.—Each of the Committees, Sub-committees, Advisory Committees, Advisory Sub-committees and the Advisory Board shall consist of persons to be nominated by the appropriate Government representing employers and employees in the scheduled employments, who shall be equal in number, and independent persons not exceeding one-third of its total number of members; one of such independent persons shall be appointed the Chairman by the appropriate Government.

10. Procedure for revision of minimum rates of wages.—(1) Before revising any minimum wages fixed under this Act, the appropriate Government shall consult all advisory committees appointed under section 6 to inquire into the conditions prevailing in the scheduled employment concerned, and the Advisory Board also.

2) Revisions of minimum wages shall be notified by the appropriate Government in the official Gazette, and unless the notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue.

11. Wages in kind.—(1) Minimum wages payable under this Act shall be paid in cash.

(2) Where it has been the custom to pay wages wholly or partly in kind, the appropriate Government being of the opinion that it is necessary in the circumstances of the case may, by notification in the official Gazette, authorise the payment of minimum wages either wholly or partly in kind.

(3) If the appropriate Government is of the opinion that provision should be made for the supply of essential commodities at concession rates, the appropriate Government may, by notification in the official Gazette, authorise the provision of such supplies at concession rates.

(4) The cash value of wages in kind and of concession in respect of supplies of essential commodities at concession rates authorised under sub-sections (2) and (3) shall be estimated in the prescribed manner.

12. Payment of minimum rates of wages.—(1) Where in respect of any scheduled employment a notification under section 5 or section 10 is in force, the employer shall pay to every employee engaged in a scheduled employment under him wages at a rate not less than the minimum rate of wages fixed by such notification for that class of employees in that employment without any deductions except as may be authorised within such time and subject to such conditions as may be prescribed.

(2) Nothing contained in this section shall affect the provisions of the Payment of Wages Act, 1936 (IV of 1936).

13. Fixing hours for a normal working day, etc.—In regard to any scheduled employment minimum rates of wages in respect of which have been fixed under this Act, the appropriate Government may—

- (a) fix the number of hours of work which shall constitute a normal working day, inclusive of one or more specified intervals ;
- (b) provide for a day of rest in every period of seven days which shall be allowed to all employees or to any speci-

fied class of employees and for the payment of remuneration in respect of such days of rest ,

- (c) provide for payment for work on a day of rest at a rate not less than the overtime rate.

14. Overtime.—(1) Where an employee, whose minimum rate of wages is fixed under this Act by the hour, by the day or by such a longer wage-period as may be prescribed, works on any day in excess of the number of hours constituting a normal working day, the employer shall pay him for every hour or for part of an hour so worked in excess at the overtime rate fixed under this Act or under any law of the appropriate Government for the time being in force, whichever is higher.

(2) Nothing in this Act shall prejudice the operation of the provisions of section 47 of the Factories Act, 1934 (XXV of 1934) in any case where those provisions are applicable

15. Wages of worker who works for less than normal working day.—If an employee whose minimum rate of wages has been fixed under this Act by the day works on any day on which he was employed for a period less than the requisite number of hours constituting a normal working day, he shall, save as otherwise hereinafter provided, be entitled to receive wages in respect of work done by him on that day as if he had worked for a full normal working day :

Provided, however, that he shall not be entitled to receive wages for a full normal working day—

- (i) in any case where his failure to work is caused by his unwillingness to work and not by the omission of the employer to provide him with work, and
- (ii) in such other cases and circumstances as may be prescribed

16. Wages for two or more classes of work.—Where an employee does two or more classes of work to each of which a different minimum rate of wages is applicable, the employer shall pay to such employee in respect of the time respectively occupied in each such class of work, wages at not less than the minimum rate in force in respect of each such class.

17. Minimum time rate wages for piece work.—Where an employee is employed on piece work for which minimum time rate and not a minimum piece rate has been fixed under this Act, the employer shall pay to such employee wages at not less than the minimum time rate.

18. Maintenance of registers and records.—(1) Every employer shall maintain such registers and records giving such particulars of employees employed by him, the work performed by them, the wages paid to them, the receipts given by them and such other particulars and in such form as may be prescribed

(2) Every employer shall keep exhibited, in such manner as may be prescribed, in the factory, workshop or place where the employees in the scheduled employment may be employed, or in the case of out-workers, in such factory, workshop or place as may be used for giving out-work to them, notices in the prescribed form containing prescribed particulars.

(3) The appropriate Government may, by rules made under this Act, provide for the issue of wage books or wage slips to employees employed in any scheduled employment in respect of which minimum rates of wages have been fixed and prescribe the manner in which entries shall be made and authenticated in such wage books or wage slips by the employer or his agent.

19. Inspectors.—(1) The appropriate Government may, by notification in the official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act, and define the local limits within which they shall exercise their functions

(2) Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed—

- (a) enter, at all reasonable hours, with such assistants (if any), being persons in the service of the Crown or any local or other public authority, as he thinks fit, any premises or place where employees are employed or work is given out to out-workers in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, for the purpose of examining any register, record of wages or notices required to be kept or exhibited by or under this Act or rules made thereunder, and require the production thereof for inspection ;
- (b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is an employee employed therein or an employee to whom work is given out therein ;
- (c) require any person giving out-work and any out-workers, to give any information, which is in his power to give,

with respect to the names and addresses of the persons to, for and from whom the work is given out or received, and with respect to the payments to be made for the work,

(d) take copies of any register, record of wages or notices or of any portions thereof, and

(e) exercise such other powers as may be prescribed

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860)

20. Claims.—(1) The appropriate Government may, by notification in the official Gazette, appoint any Commissioner for Workmen's Compensation or other officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate to be the Authority to hear and decide for any specified area all claims arising out of payment of less than the minimum rates of wages to employees employed or paid in that area

(2) Where an employee is paid less than the minimum rates of wages fixed for his class of work under this Act, the employee himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector, or any person acting with the permission of the Authority appointed under sub-section (1), may apply to such Authority for a direction under sub-section (3)

Provided that every such application shall be presented within six months from the date on which the minimum wages became payable.

Provided further that any application may be admitted after the said period of six months when the applicant satisfies the Authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the Authority shall hear the applicant and the employer or give them an opportunity of being heard, and after such further inquiry if any as it may consider necessary, may, without prejudice to any other penalty to which the employer may be liable under this Act, direct the payment to the employee of the amount by which the minimum wages payable to him exceed the amount actually paid, together with the payment of such compensation as the Authority may think fit, not exceeding ten times the amount of such excess and

the Authority may direct payment of such compensation in cases where the excess is paid by the employer to the employee before the disposal of the application.

(4) If the Authority hearing any application under this section is satisfied that it was either malicious or vexatious, it may direct that a penalty not exceeding fifty rupees be paid to the employer by the person presenting the application

(5) Any amount directed to be paid under this section may be recovered—

(a) if the Authority is a Magistrate, by the Authority as if it were a fine imposed by the Authority as a Magistrate, or

(b) if the Authority is not a Magistrate, by any Magistrate to whom the Authority makes application in this behalf, as if it were a fine imposed by such Magistrate

(6) Every direction of the Authority under this section shall be final.

(7) Every Authority appointed under sub-section (1) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such Authority shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898).

21. Single application in respect of a number of employees.

—(1) A single application may be presented under section 20 on behalf or in respect of any number of employees employed in the scheduled employment in respect of which minimum rates of wages have been fixed and in such cases the maximum compensation which may be awarded under sub-section (3) of section 20 shall not exceed ten times the aggregate amount of such excess

(2) The Authority may deal with any number of separate pending applications presented under section 20 in respect of employees in the scheduled employments in respect of which minimum rates of wages have been fixed, as a single application presented under sub-section (1) of this section and the provisions of that sub-section shall apply accordingly.

22. Penalties and procedure.—(1) Any employer who pays to any employee less than the minimum rates of wages fixed for that employee's class of work, or less than the amount due to him under

the provisions of this Act, or infringes any order or rules made under section 13, shall be punishable with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Provided that in imposing any fine for an offence under this sub-section, the Court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 20

(2) Any employer who fails to maintain a register or record required to be maintained under section 18 shall be punishable with fine which may extend to five hundred rupees

(3) No Court shall take cognizance of a complaint against any person for an offence under sub-section (1), unless an application in respect of the facts constituting the offence has been presented under section 20 and has been granted wholly or in part, and the Authority granting such application has sanctioned the making of the complaint.

(4) No Court shall take cognizance of an offence under sub-section (2) except on a complaint made by, or with the sanction of, an Inspector.

(5) No Court shall take cognizance of an offence—

(a) under sub-section (1), unless complaint thereof is made within one month of the grant of sanction under sub-section (3) ;

(b) under sub-section (2), unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

23. Exemption of employer from liability in certain cases.

—Where an employer is charged with an offence against this Act, he shall be entitled, upon complaint duly made by him, to have any other person whom he charges as the actual offender, brought before the Court at the time appointed for hearing the charge ; and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the Court—

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance, that

other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer and the employer shall be discharged

Provided that in seeking to prove, as aforesaid, the employer may be examined on oath, and the evidence of the employer or his witness, if any, shall be subject to cross-examination by or on behalf of the person whom the employer charges as the actual offender and by the prosecution.

24. Bar of suits.—No Court shall entertain any suit for the recovery of wages in so far as the sum so claimed—

- (a) forms the subject of an application under section 20 which has been presented by or on behalf of the plaintiff, or
- (b) has formed the subject of a direction under that section in favour of the plaintiff, or
- (c) has been adjudged in any proceeding under the section not to be due to the plaintiff, or
- (d) could have been recovered by an application under that section.

25. Contracting out.—Any contract or agreement, whether made before or after the commencement of this Act, whereby an employee either relinquishes or reduces his right to a minimum rate of wages or any privilege or concession accruing to him under this Act shall be null and void in so far as it purports to reduce the minimum rate of wages fixed under this Act.

26. Exemptions and exceptions.—(1) The appropriate Government may, subject to such conditions if any as it may think fit to impose, direct that the provisions of this Act shall not apply in relation to the wages payable to disabled employees

(2) The appropriate Government may, if for special reasons it thinks so fit, by notification in the official Gazette direct that for such period as it may specify the provisions of this Act or any of them shall not apply to all or any class of employees employed in any scheduled employment or to any locality where there is carried on a scheduled employment.

(3) Nothing in this Act shall apply, to the wages payable by an employer to a member of his family who is living with him and is dependant on him.

Explanation.—In this sub-section a member of the employer's family shall be deemed to include his or her spouse or child or parent or brother or sister.

27. Power of Provincial Government to add to Schedule.

—The appropriate Government, after giving by notification in the official Gazette not less than three months' notice of its intention so to do, may, by like notification, add to either Part of the Schedule any employment in respect of which it is of opinion that minimum rates of wages should be fixed under this Act, and thereupon the Schedule shall in its application to the Province be deemed to be amended accordingly.

28. Power of Central Government to give directions.—The Central Government may give directions to a Provincial Government as to the carrying into execution of this Act in the Province

29. Power of the Central Government to make rules.—The Central Government may, subject to the condition of previous publication, by notification in the official Gazette, make rules prescribing the term of office of the members, the procedure to be followed in the conduct of business, the method of voting, the manner of filling up casual vacancies in membership and the quorum necessary for the transaction of business of the Central Advisory Board

30. Power of appropriate Government to make rules.—

(1) The appropriate Government may, subject to the condition of previous publication, by notification in the official Gazette, make rules for carrying out the purposes of this Act ;

(2) without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the term of office of the members, the procedure to be followed in the conduct of business, the method of voting, the manner of filling up casual vacancies in membership and the quorum necessary for the transaction of business of the committees, sub-committees, advisory committees and the Advisory Board ;

(b) prescribe the method of summoning witnesses, production of documents relevant to the subject-matter of the enquiry before the committees, sub-committees, advisory committees, advisory sub-committees and the Advisory Board ;

(c) prescribe the mode of computation of the cash value of wages in kind and of concessions in respect of supplies of essential commodities at concession rates ;

- (e) prescribe the time and conditions of payment of, and the deductions permissible from wages ,
- (f) provide for giving adequate publicity to the minimum rates of wages fixed under this Act ,
- (g) provide for a day of rest in every period of seven days and for the payment of remuneration in respect of such day ,
- (g) prescribe the number of hours of work which shall constitute a normal working day ,
- (h) prescribe the cases and circumstances in which an employee employed for a period of less than the requisite number of hours constituting a normal working day shall not be entitled to receive wages for a full normal working day ;
- (i) prescribe the form of registers and records to be maintained and the particulars to be entered in such registers and records ,
- (j) provide for the issue of wage books and wage slips and prescribe the manner of making and authenticating entries in wage books and wage slips ,
- (k) prescribe the powers of Inspectors for purposes of this Act ;
- (l) regulate the scale of costs that may be allowed in proceedings under section 20 ,
- (m) prescribe the amount of court-fees payable in respect of proceedings under section 20 ; and
- (n) provide for any other matter which is to be or may be prescribed

THE SCHEDULE

[SEE SECTION 2 (G) AND 27]

PART I

- 1 Employment in any woollen carpet making or shawl weaving establishment
2. Employment in any rice mill, flour mill or dal mill.
- 3 Employment in any tobacco (including bidi making) manufactory

4. Employment in any plantation, that is to say, any estate which is maintained for the purpose of growing cashew, rubber, tea or coffee.
5. Employment in any oil mill.
6. Employment under any local authority.
7. Employment on road construction or in building operations.
8. Employment in stone breaking or stone crushing.
9. Employment in any lac manufactory.
10. Employment in any mica works.
11. Employment in public motor transport.
12. Employment in tanneries and leather manufactory.

PART II

1. Employment in agriculture, that is to say, in any form of farming, including the cultivation and tillage of the soil, dairy farming, the production, cultivation, growing and harvesting of any agricultural or horticultural commodity, the raising of live-stock, bees or poultry, and any practice performed by a farmer or on a farm as incidental to or in conjunction with farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation to market of farm produce)

WORKMEN'S COMPENSATION LEGISLATION.

First social insurance legislation in India.

The Workmen's Compensation Act was the first and most important piece of social insurance legislation in India. The demand for compensation in the case of fatal or serious accidents was made by industrial workers since 1884. Formerly if a worker sustained injuries in course of his employment, his employer was not bound to compensate him except in so far as the accident took place due to the personal negligence of the employer. Under the Fatal Accidents Act of 1885, the employers could be sued for compensation in case of death arising from accidents.

Workmen's Compensation Act, 1923 (VIII of 1923).

Proposals for Workmen's Compensation Act was first announced by the Government of India in 1921 and was accepted by the majority of local Governments and of employers and workers associations. The Bill introduced in the Legislative Assembly on 13th September, 1922 mentioned that though the general principles of workmen's compensation commanded universal acceptance, India was alone amongst civilized countries without legislation embodying these principles. The Workmen's Compensation Act was passed on 5th March, 1923 (VIII of 1923) and came into force on 1st July, 1924. The Act followed the English model in its main principle and some of its provisions were borrowed from English legislation, but its scope was much more limited.

Object of legislation.

The object of the Act was to impose an obligation upon certain classes of employers to pay compensation to their manual workers for accidents arising out and in course of employment and resulting in death or total or partial disablement for a period exceeding 10 days. Compensation is also payable for some occupational diseases. Occupations covered by the Act are enumerated and amount of compensation to be paid are laid down. The amount of compensation payable is correlated to the level of worker's wages and the nature of injury sustained by him. The clerical staff as well as workers whose salaries exceed Rs 300/- a month are excluded from its scope.

Administration of law.

The administration of the Act is entrusted to the Provincial Governments who appoint Commissioner for Workmen's Compensation for settlement of the questions arising in the proceedings under the Act. Every employee is required to report all fatal accidents to the Commissioner who can require the employer to submit the case and to state whether he accepts the liability or not. If the employer accepts, he has to deposit the due sum to the Commissioner. Any contract concluded between the employer and the worker with regard to the amount of compensation will be declared null and void unless the same is registered with the Commissioner. The Central Government was authorised to include, by notification, any other classes of workers who are employed in hazardous occupations and also to add to the list of occupational diseases.

Amendment of the Act in 1924 and 1925.

The Act was amended in 1924 by the Repealing and Amending Act of 1924 (VII of 1924) and in 1925 by the Repealing and Amending Act of 1925 (XXXVII of 1925).

Workmen's Compensation (Amendment) Act 1926 (XXIX of 1926).

The International Labour Conference adopted a Convention in 1925 concerning Workmen's Compensation (Occupational Diseases) and the Central Government, after ratification of the said Convention, amended the Workmen's Compensation Act in 1926 (XXIX of 1926) making necessary changes in the list of occupational diseases.

Workmen's Compensation (Amendment) Act, 1929 (V of 1929).

The Act was again amended in 1929 (V of 1929) for effecting certain changes of non-controversial character.

Workmen's Compensation (Amendment) Act, 1933 (XV of 1933).

Though amended and extended, the Act was found still inadequate. The Royal Commission on Labour recommended the extension of the scope of the Act, the addition of new occupational diseases, the increase of the scale of benefit and the administration

of the Act by specially qualified Commissioners. On the basis of these recommendations, the Workmen's Compensation (Amendment) Act was passed in 1933 (XV of 1933) which came into force on 1st July, 1934. The important provisions of the amending Act are (1) the scope was extended to include new industries and occupations and also new occupational diseases, (2) the scale of benefit was increased and the number of wage classes was raised from 14 to 17 and amount of compensation for death raised from Rs. 500/- to Rs. 4,000/- and compensation for permanent total disablement increased to Rs. 5,000/-, (3) the waiting period for compensation was reduced from 10 to 7 days, (4) widows, daughters and sisters were included amongst dependants for compensation, (5) the Governor-General in Council was granted power to arrange for transfer of compensation to a foreign country in case of person residing abroad and also for administration of compensation awarded under the law of a foreign country for the benefit of a person residing in India. The Act thus revised covers railways, tramways, factories, mines, docks, tea, coffee, rubber or cinchona plantations, electricity or gas generating stations, workers engaged in construction, demolition or repairs to certain buildings, road, bridges or tunnels, operations relating to telegraph, telephone or overhead electric lines, cinematograph works and underground sewage workers. The Act granted wide powers to the Central Government for extension of the scope of the Act and for making rules for giving effect to the provisions of the Act. All these powers were transferred to the Provinces after 1st April, 1937.

Workmen's Compensation (Amendment) Act, 1937 (VII of 1937).

The Act was further amended in 1937 (VII of 1937) with a view to transfer payments relating to workmen's compensation when the dependants of workmen were in another country than the one in which compensation was deposited. This was necessitated in connection with the separation of Burma from India. The Amendment permitted such transfer between Burma and India after separation.

Workmen's Compensation (Amendment) Act, 1938 (IX of 1938).

The Act was again amended in 1938 (IX of 1938) to rectify certain ambiguities and defects found in course of administration of

the Act. The scope was extended to cover liftmen and men employed in tapping palm trees and in hunting wild animals and some occupational diseases were added to the Schedule. The period of limitation for preferring claim for compensation for accident was extended from 6 months to 1 year. The Act empowered a life insurance agent or a registered trade union officer duly authorised or any person with the permission of the Commissioner to appear before the Commissioner on behalf of the injured man or his beneficiary.

Workmen's Compensation (Amendment) Act, 1939 (XIII of 1939).

The Act was further amended in 1939 (XIII of 1939) clarifying the meaning of the term "monthly wages". The amended Act provides that monthly wages means the amount of wages deemed to be payable for a month's service whether the payment is by the month or not.

Workmen's Compensation (Amendment) Act, 1942 (I of 1942).

The question of further amending the Act concerning several points were discussed at the Third Labour Ministers' Conference held in January, 1942. The Act was amended in 1942 (I of 1942) prohibiting double payment of compensation under this Act as well as under War Pensions and Detention Allowances (Mercantile Marine, etc.), Scheme, 1939 or other schemes in respect of personal injuries to seamen. Failure to give notice or make a claim or commence proceedings within the time required by the Act shall not be a bar to the maintenance of proceedings under the Act in respect of the personal injury if an application was made for payment in respect of injury under the above Scheme and if the Provincial Government certifies that the said application was made in the reasonable belief and was rejected.

Workmen's Compensation (Amendment) Act, 1946 (I of 1946).

The seventh meeting of the Standing Labour Committee held on 25th August, 1945 decided to amend the definition of workmen in the Act in order that the concessions granted owing to the rise in the cost of living to higher categories of workmen may not operate to deprive them of the benefits under the Act to which they are entitled. The legislation was undertaken, because the British Govern-

ment had also altered the Scheme and admitted many others in the category of persons entitled to compensation. The Workmen's Compensation (Amendment) Act, 1946 (1 of 1946) enhanced the maximum monthly wage limit of workmen from Rs. 300/- to Rs. 400/- and also amended the Schedule IV prescribing maximum compensation payable at a higher scale from Rs. 4,000/- to Rs. 4,500/- in case of death and from Rs. 5,600/- to Rs. 6,300/- in case of permanent total disablement.

WORKMEN'S COMPENSATION ACT, 1923 (VIII OF 1923)

Arrangement of Sections

CHAPTER I.—PRELIMINARY

- 1 Short title, extent and commencement
- 2 Definitions.

CHAPTER II—WORKMEN'S COMPENSATION

- 3 Employer's liability for compensation
- 4 Amount of compensation
- 5 Method of calculating wages
- 6 Review
- 7 Commutation of half-monthly payments
- 8 Distribution of compensation
- 9 Compensation not to be assigned, attached or charged
- 10 Notice and claim
- 10A. Power to require from employers statements regarding fatal accidents
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- 11 Medical examination
- 12 Contracting
- 13 Remedies of employer against stranger
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CHAPTER III—COMMISSIONERS

- 19. Reference to Commissioners
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CHAPTER IV—RULES

- 32. Power of the Provincial Government to make rules
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- 35. Rules to give effect to arrangements with other countries for the transfer of money paid as compensation
- Schedule I—List of injuries deemed to result in permanent partial disablement
- Schedule II—List of persons who subject to the provisions of Section 2(1) (n) are included in the definition of Workmen
- Schedule III—List of Occupational Diseases
- Schedule IV—Compensation payable in certain cases.

WORKMEN'S COMPENSATION ACT, 1923 (VIII OF 1923)¹

An Act to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident.

WHEREAS it is expedient to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident; It is hereby enacted as follows.—

CHAPTER—I.—PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Workmen's Compensation Act, 1923.

(2) It extends to ²[all the Provinces of India] including ³ the Sonthal Parganas.

(3) It shall come into force, on the first day of July, 1924

2. Definitions.—(1) In this Act, unless there is anything repugnant in the subject or context—

(a) "adult" and "minor" mean respectively a person who is not and a person who is under the age of fifteen years,

(b) "Commissioner" means a Commissioner for Workmen's Compensation appointed under section 20;

(c) "compensation" means compensation as provided for by this Act,

⁴[(d) "dependant" means any of the following relatives of a deceased workman, namely—

(i) a ⁵[widow], a minor legitimate son, and unmarried legitimate daughter, or a widowed mother; and

(ii) if wholly or in part dependent on the earnings of the workman at the time of his death, a ⁶[widower], a parent other than a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and a minor

¹ For Statement of Objects and Reasons, see Gazette of India, 1922, Pt. V, p 313, and for Report of Joint Committee, see *ibid*, 1923, Pt. V, p 37

² These words were substituted for the words "the whole of British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948

³ These words "British Baluchistan" was repealed, *ibid*

⁴ This clause was substituted by s 2 of the Workmen's Compensation (Amendment) Act, 1933 (XV of 1933)

⁵ This word was substituted for the word "wife" by s. 2 of the Workmen's Compensation (Amendment) Act, 1938 (IX of 1938).

⁶ This word was substituted for the word "husband", *ibid*.

or if widowed, a minor brother, an unmarried or widowed sister, a widowed daughter-in-law, a minor child of a deceased son, ¹[a minor child of a deceased daughter where no parent of the child is alive,] or, where no parent of the workman is alive, a paternal grandparent ;

(e) "employer" includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and, when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract or service or apprenticeship, means such other person while the workman is working for him ;

(f) "managing agent" means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer ;

(g) "partial disablement" means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time provided that every injury specified in Schedule I shall be deemed to result in permanent partial disablement;

(h) "prescribed" means prescribed by rules made under this Act ;

(i) "qualified medical practitioner" means any person registered under the Medical Act, 1958 (21 & 22 Vict. C. 90), or any Act amending the same, or under any Act of ²[the Central Legislature or of any Legislature in a Province of India] providing for the maintenance of a register of medical practitioners, or, in any area where no such last-mentioned Act is in force, any person declared by the ³[Provincial Government], by notification in the ⁴[Official Gazette], to be a qualified medical practitioner for the purposes of this Act ;

¹ These words and the comma were inserted by Section 2 of the Workmen's Compensation (Amendment) Act, 1938 (IX of 1938)

² These words were substituted for the words "any Legislature in British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948

³ These words were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937

⁴ These words were substituted for the words "local official Gazette", *ibid.*

¹(j) * * * *

(k) "seaman" means any person forming part of the crew of any ²* * * ship, but does not include the master of ³[the] ship;

(l) "total disablement" means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement: provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes or from any combination of injuries specified in Schedule I where the aggregate percentage of the loss of earning capacity, as specified in that Schedule against those injuries, amounts to one hundred per cent;

(m) "wages" includes any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer of a workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment;

(n) "workman" means any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is—

(i) a railway servant as defined in section 3 of the Indian Railways Act, 1890 (IX of 1890), not permanently employed in any administrative, district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II, or

(ii) employed ⁴* * * on monthly wages not exceeding ⁵[four] hundred rupees, in any such capacity as is specified in Schedule II.

whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member

¹ Clause (j) was omitted by s. 2 of the Workmen's Compensation (Amendment) Act, 1933 (XV of 1933).

² The word "registered" was omitted, *ibid*.

³ This word was substituted for the words "any such", *ibid*.

⁴ The words "either by way of manual labour or" were omitted by s. 2 of the Workmen's Compensation (Amendment) Act, 1933 (XV of 1933).

⁵ This word was substituted for the word "three" by s. 2 of the Workmen's Compensation (Amendment) Act, 1946 (1 of 1948).

of His Majesty's naval, military or air forces¹ ; and any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them.

(2) The exercise and performance of the powers and duties of a local authority or of any department² [acting on behalf of the Crown] shall, for the purposes of this Act, unless a contrary intention appears, be deemed to be the trade or business of such authority or department.

³[(3) The⁴ [Provincial Government], after giving, by notification in the⁵ [Official Gazette], not less than three months' notice of "[its] intention so to do, may, by a like notification, add to Schedule II any class of persons employed in any occupation which⁷ [it] is satisfied is a hazardous occupation, and the provisions of this Act shall thereupon apply⁶ [within the Province] to such classes of persons

Provided that in making such addition the⁴ [Provincial Government] may direct that the provisions of this Act shall apply to such classes of persons in respect of specified injuries only]

CHAPTER II —WORKMEN'S COMPENSATION

3. Employer's liability for compensation.—(1) If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter ;

Provided that the employer shall not be so liable—

(a) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding⁹ [seven] days ;

¹ The words "or of the Royal Indian Marine Service" were omitted by the Government of India (Adaptation of Indian Laws) Order, 1937

² These words were substituted for the words "of the Government", *ibid*

³ This sub-section was substituted by s 2 of the Workmen's Compensation (Amendment) Act, 1933 (XV of 1933) for the original sub-section

⁴ These words were substituted for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937

⁵ These words were substituted for the words "Gazette of India", *ibid*

⁶ This word was substituted for the word "his", *ibid*.

⁷ This word was substituted for the word "he", *ibid*

⁸ These words were inserted, *ibid*

⁹ This word was substituted for the word "ten" by s 3 of the Workmen's Compensation (Amendment) Act, 1933 (XV of 1933)

(b) in respect of any ¹[injury, not resulting in death, caused by] an accident which is directly attributable to—

- (i) the workman having been at the time thereof under the influence of drink or drugs, or
- (ii) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or
- (iii) the wilful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen.²

(2) ³[If a workman employed in any employment specified in Part A of Schedule III contracts any disease specified therein as an occupational disease peculiar to that employment] or if a workman, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any employment specified in ⁴[Part B of] Schedule III, contracts, any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment

Explanation—For the purposes of this sub-section a period of service shall be deemed to be continuous which has not included a period of service under any other employer ⁵[in the same kind of employment]

(3) The “[Provincial Government] after giving, by notification in the “[Official Gazette], not less than three months’ notice of ⁶[its] intention so to do, may, by a like notification, add any description of

¹ These words were substituted for the words “injury to a workman resulting from” by s. 3 of the Workmen’s Compensation (Amendment) Act, 1933 (XV of 1933)

² The word “or” and clause (c) were omitted by s. 2 of the Workmen’s Compensation (Amendment) Act, 1929 (V of 1929)

³ These words were substituted by s. 3 of the Workmen’s Compensation (Amendment) Act, 1938 (IX of 1938)

⁴ These words were inserted, *ibid*

⁵ These words were added, by s. 3 of the Workmen’s Compensation (Amendment) Act, 1938 (IX of 1938)

⁶ These words were substituted for the words “Governor General in Council” by the Government of India (Adaptation of Indian Laws) Order, 1937.

⁷ These words were substituted for the words “Gazette of India”, *ibid*

⁸ This word was substituted for the word “his”, *ibid*

employment to the employments specified in Schedule III, and shall specify in the case of the employments so added the diseases which¹ [within the Province] shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and the provisions of sub-section (2) shall hereupon apply¹ [within the Province] as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments

(4) Save as provided by sub-sections (2) and (3), no compensation shall be payable to a workman in respect of any disease unless the disease is² directly attributed to a specified injury by accident arising out of and in the course of his employment

(5) Nothing herein contained shall be deemed to confer any right to compensation on a workman in respect of any injury if he has instituted in a Civil Court a suit for damages in respect of the injury against the employer or any other person, and no suit for damages shall be maintained by a workman in any Court of law in respect of any injury—

(a) if he has instituted a claim to compensation in respect of the injury before a Commissioner ; or

(b) if an agreement has been come to between the workman and his employer providing for the payment of compensation in respect of the injury in accordance with the provisions of this Act

4. Amount of compensation.—³[(1) Subject to the provisions of this Act, the amount of compensation shall be as follows, namely.—

A Where death results from the injury—

(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the second column thereof, and

(ii) in the case of a minor—two hundred rupees ;

B Where permanent total disablement results from the injury—

(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the third column thereof, and

(ii) in the case of a minor—two hundred rupees ,

¹ These words were inserted by the Government of India (Adaptation of Indian Laws) Order, 1937.

² The words "solely and" were omitted by s 3 of the Workmen's Compensation (Amendment) Act, 1933 (XV of 1933)

³ This sub-section was substituted by s 4, *ibid*, for the original sub-section

C Where permanent partial disablement results from the injury—

- (i) in the case of an injury specified in Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and
- (ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury ;

Explanation.—Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries ;

D Where temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the sixteenth day after the expiry of a waiting period of seven days from the date of the disablement, and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter,—

- (i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—of the sum shown against such limits in the fourth column thereof, and
- (ii) in the case of a minor—of one-half of his monthly wages, subject to a maximum of thirty rupees :

Provided that—

(a) there shall be deducted from any lump sum or half-monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be and

(b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident.]

(2) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month

5. Method of calculating wages.—¹²[In this Act and for the purposes thereof the expression “monthly wages” means the amount of wages deemed to be payable for a month’s service (whether the wages are payable by the monthly or by whatever other period or at piece rates), and calculated] as follows, namely —

(a) where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the workman shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period,

[(b) where the whole of the continuous period of service immediately preceding the accident during which the workman was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the workman shall be ⁴ the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a workman employed on the same work by the same employer, or, if there was no workman so employed, by a workman employed on similar work in the same locality ;]

³[(c)] In other cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from

¹ The brackets and figure “(1)” were omitted by s. 4 of the Workmen’s Compensation (Amendment) Act, 1938 (IX of 1938).

² These words were substituted for the words “For the purposes of this Act the monthly wages of a workman shall be calculated” by s. 2 of the Workmen’s Compensation (Amendment) Act, 1939 (XIII of 1939) (with effect from 30th June, 1934).

³ This clause was inserted by s. 5 of the Workmen’s Compensation (Amendment) Act, 1933 (XV of 1933).

⁴ The words, “deemed to be” were omitted by s. 2 of the Workmen’s Compensation (Amendment) Act, 1939 (XIII of 1939) (with effect from 30th June 1934).

⁵ The original clause (b) was re-lettered clause (c) by s. 5 of the Workmen’s Compensation (Amendment) Act 1933 (XV of 1933).

the employer who is liable to pay compensation, divided by the number of days comprising such period

Interpretation—A period of service shall, for the purposes of this [section] be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days

6. Review.—(1) Any half-monthly payment payable under this Act, either under an agreement between the parties or under the order of a Commissioner, may be reviewed by the Commissioner, on the application either of the employer or of the workman accompanied by the certificate of a qualified medical practitioner that there has been a change in the condition of the workman or, subject to rules made under this Act, on application made without such certificate

(2) Any half-monthly payment may, on review under this section, subject to the provisions of this Act, be continued, increased, decreased or ended, or if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the workman is entitled less any amount which he has already received by way of half-monthly payments

7. Commutation of half-monthly payments.—Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the Commissioner be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the Commissioner, as the case may be

8. Distribution of compensation.—⁴[(1) No payment of compensation in respect of a workman whose injury has resulted in death, and no payment of a lump sum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation :

¹ The proviso was omitted, *ibid*

² This word was substituted for the word "sub-section" by s. 4 of the Workmen's Compensation (Amendment) Act, 1938 (IX of 1938)

³ Sub-section (2) was omitted by s. 5 of the Workmen's Compensation (Amendment) Act, 1933 (XX of 1933)

⁴ Sub-sections (1)—(3) were substituted by s. 4 of the Workmen's Compensation (Amendment) Act, 1929 (V of 1929) for the original sub-sections

¹[Provided that, in the case of a deceased workman, an employer may make to any dependant advances on account of compensation not exceeding an aggregate of one hundred rupees, and so much of such aggregate as does not exceed the compensation payable to that dependant shall be deducted by the Commissioner from such compensation and repaid to the employer]

(2) Any other sum amounting to not less than ten rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him]

(4) On the deposit of any money under sub-section (1) ²[as compensation in respect of a deceased workman] the Commissioner ³[shall deduct] therefrom the actual cost of the workman's funeral expenses, to an amount not exceeding ⁴[twenty-five rupees] and pay the same to the person by whom such expenses were incurred, and shall, if he thinks necessary, cause notice to be published or to be served on each dependant in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied after any inquiry which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid. The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

⁵[(5)] Compensation deposited in respect of a deceased workman shall, subject to any deduction made under sub-section (4), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependant.

(6) Where any compensation deposited with the Commissioner is

¹ This proviso was substituted by s. 6 of the Workmen's Compensation (Amendment) Act, 1933 (XV of 1933).

² These words were inserted by s. 4 of the Workmen's Compensation (Amendment) Act, 1929 (V of 1929).

³ These words were substituted for the words "may deduct" by s. 6 of the Workmen's Compensation (Amendment) Act, 1933 (XV of 1933).

⁴ These words were substituted for the words "fifty rupees or so much of that cost or of fifty rupees, whichever is less as has not already been advanced by the employer on account of such expenses", *ibid*.

⁵ Sub-sections (5)—(7) were substituted for original sub-section (5) by s. 4 of the Workmen's Compensation (Amendment) Act, 1929 (V of 1929).

payable to any person, the Commissioner shall, if the person to whom the compensation is payable is not a woman or a person under a legal disability, and may, in other cases, pay the money to the person entitled thereto

(7) Where any lump sum deposited with the Commissioner is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct, and where a half-monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependant of the workman or to any other person whom the Commissioner thinks best fitted to provide for the welfare of the [workman]

¹[(8)] Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of the former order as he thinks just in the circumstances of the case

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him

²[(9) Where the Commissioner varies any order under subsection (8) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 31]

9. Compensation not to be assigned, attached or charged.

—Save as provided by this Act, no lump sum or half-monthly pay-

¹ The original sub-section (6) was renumbered as (8) by the Workmen's Compensation (Amendment) Act, 1929 (V of 1929).

² This sub-section was added, *ibid*

ment payable under this Act shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the workman by operation of law, nor shall any claim be set off against the same.

10. Notice and claim.—(1) ¹[No claim for compensation shall be entertained by a Commissioner unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within one year of the occurrence of the accident or, in case of death, within one year from the date of death.]

Provided that, where the accident is the contracting of a disease in respect of which the provisions of sub-section (2) of section 3 are applicable, the accident shall be deemed to have occurred on the first of the days during which the workman was continuously absent from work in consequence of the disablement caused by the disease

²[Provided further, that the want of or any defect or irregularity in a notice shall not be a bar to the ³[entertainment of a claim]—

(a) if the claim is ⁴[preferred] in respect of the death of a workman resulting from an accident which occurred on the premises of the employer, or at any place where the workman at the time of the accident was working under the control of the employer or of any person employed by him, and the workman died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or

(b) if the employer ⁵[or any one of several employers or any person responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed] had knowledge of the accident from any other source at or about the time when it occurred.]

Provided, further that the Commissioner may ⁶[entertain] and decide any claim to compensation in any case notwithstanding that

¹ These words were substituted by s. 5 of the Workmen's Compensation (Amendment) Act, 1938 (IX of 1938) for the original words

² This proviso was inserted by s. 7 of the Workmen's Compensation (Amendment) Act, 1933 (IX of 1933)

³ These words were substituted for the words "maintenance of proceedings" by s. 5 of the Workmen's Compensation (Amendment) Act, 1938 (IX of 1938)

⁴ This word was substituted for the word "made", *ibid*

⁵ These words were inserted, *ibid*

⁶ This word was substituted for the word "admit", *ibid*

the notice has not been given, or the claim has not been ¹[preferred] in due time as provided in this sub-section, if he is satisfied that the failure so to give the notice or ²[prefer] the claim, as the case may be, was due to sufficient cause

(2) Every such notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date on which the accident happened, and shall be served on the employer or upon ³[any one of] several employers, or upon any person responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed

³[(3) The "[Provincial Government]" may require that any prescribed class of employers shall maintain at their premises at which workmen are employed a notice-book, in the prescribed form, which shall be readily accessible at all reasonable times to any injured workman employed on the premises and to any person acting *bona fide* on his behalf

(4) A notice under this section may be served by delivering it at, or sending it by registered post addressed to the residence or any office or place of business of the person on whom it is to be served, or, where a notice-book is maintained, by entry in the notice-book]

⁷[10A. Power to require from employers statements regarding fatal accidents.—(1) Where a Commissioner receives information from any source that a workman has died as a result of an accident arising out of and in the course of his employment, he may send by registered post a notice to the workman's employer requiring him to submit, within thirty days of the service of the notice, a statement, in the prescribed form, giving the circumstances attending the death of the workman, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death

¹ This word was substituted for the word "instituted", *ibid*

² This word was substituted for the word "institute", *ibid*

³ These words were substituted for the words "any one of" by s. 2 and First Schedule of the Repealing and Amending Act, 1924 (VII of 1924)

⁴ The word "directly" was omitted by s. 5 of the Workmen's Compensation (Amendment) Act, 1938 (IX of 1938)

⁵ Sub-sections (3) and (4) were substituted by s. 7 of the Workmen's Compensation (Amendment) Act, 1933 (XV of 1933)

⁶ These words were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937

⁷ Sections 10-A and 10-B were inserted by s. 8 of the Workmen's Compensation (Amendment) Act, 1933 (XV of 1933)

(2) If the employer is of opinion that he is liable to deposit compensation, he shall make the deposit within thirty days of the service of the notice

(3) If the employer is of opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability

(4) Where the employer has so disclaimed liability, the Commissioner, after such inquiry as he may think fit, may inform any of the dependants of the deceased workman that it is open to the dependants to prefer a claim for compensation, and may give them such other further information as he may think fit

10B. Reports of fatal accidents.—(1) Where, by any law for the time being in force, notice is required to be given to any authority, by or on behalf of an employer, of any accident occurring on his premises which results in death, the person required to give the notice shall, within seven days of the death, send a report to the Commissioner giving the circumstances attending the death

Provided that where the ¹[Provincial Government] has so prescribed the person required to give the notice may instead of sending such report to the Commissioner send it to the authority to whom he is required to give the notice

(2) The ¹[Provincial Government] may, by notification in the ²[official Gazette], extend the provisions of sub-section (1) to any class of premises other than those coming within the scope of that sub-section, and may, by such notification, specify the persons who shall send the report to the Commissioner.]

11. Medical examination.—(1) Where a workman has given notice of an accident, he shall, if the employer, before the expiry of three days from the time at which service of the notice has been effected, offers to have him examined free of charge by a qualified medical practitioner, submit himself for such examination, and any workman who is in receipt of a half-monthly payment under this Act shall, if so required, submit himself for such examination from time to time.

Provided that a workman shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance

¹ These words were substituted for the words "Local Government" by the Government of India (Adaptation of Indian (Laws) Order, 1937

² These words were substituted for the words "local official Gazette", *ibid*

with rules made under this Act, or at more frequent intervals than may be prescribed

(2) If a workman, on being required to do so by the employer under sub-section (1) or by the Commissioner at any time, refuses to submit himself for examination by a qualified medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(3) If a workman, before the expiry of the period within which he is liable under sub-section (1) to be required to submit himself for medical examination, voluntarily leaves without having been so examined the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination

(4) Where a workman, whose right to compensation has been suspended under sub-section (2) or sub-section (3), dies without having submitted himself for medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependants of the deceased workman

(5) Where under sub-section (2) or sub-section (3) a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause D of sub-section (1) of section 4, the waiting period shall be increased by the period during which the suspension continues

(6) Where an injured workman has refused to be attended by a qualified medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then, ¹[if it is proved that the workman has not thereafter been regularly attended by a qualified medical practitioner or having been so attended has deliberately failed to follow his instructions and that such refusal, disregard or failure was unreasonable], in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been

¹ These words were substituted by s. 6 of the Workmen's Compensation (Amendment) Act, 1938 (IX of 1938) for the original words

expected to be if the workman had been regularly attended by a qualified medical practitioner ¹[whose instructions he had followed], and compensation, if any, shall be payable accordingly.

12. Contracting.—(1) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purposes of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him, and where compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, [or any other person from whom the workman could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the workman could have recovered compensation] and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

13. Remedies of employer against stranger.—Where a workman has recovered compensation in respect of any injury caused

¹ These words were inserted, *ibid*

² These words were inserted by s. 9 of the Workmen's Compensation (Amendment) Act, 1933 (XV of 1933).

under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 12 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

14. Insolvency of employer.—(1) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any workman, then in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the insolvency proceedings or liquidation.

(3) Where in any case such as is referred to in sub-section (1) the contract of the employer with the insurers is void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premia), the provisions of that sub-section shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the insolvency proceedings or liquidation for the amount paid to the workman :

Provided that the provisions of this sub-section shall not apply in any case in which the workman fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings.

(4) There shall be deemed to be included among the debts which under section 49 of the Presidency-towns Insolvency Act, 1909 (III of 1909), or under section 61 of the Provincial Insolvency Act,

1920 (V of 1920), or under section 230 of the Indian Companies Act, 1913 (VII of 1913), are in the distribution of the property of an insolvent or in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount due in respect of any compensation the liability wherefor accrued before the date of the order of adjudication of the insolvent or the date of the commencement of the winding up, as the case may be, and those Acts shall have effect accordingly.

(5) Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if application were made for that purpose under section 7, and a certificate of the Commissioner as the amount of such sum shall be conclusive proof thereof.

(6) The provisions of sub-section (4) shall apply in the case of any amount for which an insurer is entitled to prove under sub-section (3), but otherwise those provisions shall not apply where the insolvent or the company being wound up has entered into such a contract with insurers as is referred to in sub-section (1)

(7) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

15. Special provisions relating to masters and seamen.—This Act shall apply in the case of workmen who are masters of ¹ships or seamen subject to the following modifications, namely:—

(1) The notice of the accident and the claim for compensation may, except where the person injured is the master of the ship, be served on the master of the ship as if he were the employer, but where the accident happened and the disablement commenced on board the ship, it shall not be necessary for any seaman to give any notice of the accident.

(2) In the case of the death of a master or seaman, the claim for compensation shall be made within six months after the news of the death has been received by the claimant or, where the ship has been or is deemed to have been lost with all hands, within eighteen months of the date on which the ship was, or is deemed to have been, so lost.

¹ The word "registered" was omitted by s. 10 of the Workmen's Compensation (Amendment) Act, 1933 (XV of 1933).

(3) Where an injured master or seaman is discharged or left behind in any part of His Majesty's dominions or in a foreign country, any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted by the person by whom they are taken to the ¹[Central Government] or any ²[Provincial Government] shall, in any proceedings for enforcing the claim, be admissible evidence—

- (a) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made ;
- (b) If the defendant or the person accused as the case may be, had an opportunity by himself or his agent to cross-examine the witness ; and
- (c) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused ;

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

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⁴[(4) No ⁵[half-monthly payment] shall be payable in respect of the period during which the owner of the ship is, under any law in force for the time being in ⁶[the Provinces] relating to merchant shipping, liable to defray the expenses of maintenance of the injured master or seaman.

¹ These words were substituted for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937

² These words were substituted for the words "Local Government", *ibid.*

³ Sub-section (4) was omitted by s 7 of the Workmen's Compensation (Amendment) Act, 1938 (IX of 1938).

⁴ The original sub-section (5) was re-numbered (4), *ibid.*

⁵ These words were substituted for the words "monthly payment" by s 2 and First Schedule of the Repealing and Amending Act, 1924 (VIII of 1924)

⁶ These words were substituted for words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

¹[(5) No compensation shall be payable under this Act in respect of any injury in respect of which provision is made for payment of a gratuity, allowance or pension under the War Pensions and Detention Allowances (Mercantile Marine, etc.) Scheme, 1939, or the War Pensions and Detention Allowances (Indian Seamen, etc.) Scheme, 1941, made under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act, 1939, (2 & 3 Geo 6, C. 83), or under the War Pensions and Detention Allowances (Indian Seamen) Scheme, 1942, made by the Central Government

(6) Failure to give a notice or make a claim or commence proceedings within the time required by this Act shall not be a bar to the maintenance of proceedings under this Act in respect of any personal injury, if—

- (a) an application has been made for payment in respect of that injury under any of the schemes referred to in the preceding clause, and
- (b) the Provincial Government certifies that the said application was made in the reasonable belief that the injury was one in respect of which the scheme under which the application was made makes provision for payments, and that the application was rejected or that payments made in pursuance of the application were discontinued on the ground that the injury was not such an injury, and
- (c) the proceedings under this Act are commenced within one month from the date on which the said certificate of the Provincial Government was furnished to the person commencing the proceedings.]

16. Returns as to compensation.—The ²[Provincial Government] may, by notification in the ³[Official Gazette], direct that every person employing workmen, or that any specified class of such persons, shall send at such time and in such form and to such authority, as may be specified in the notification, a correct return specifying the number of injuries in respect of which compensation has been

¹ These clauses were substituted for clause (5) by s. 2 of the Workmen's Compensation (Amendment) Act, 1942 (I of 1942) (with effect from 3rd September, 1939).

² These words were substituted for the words "Governor-General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

³ These words were substituted for the words "Gazette of India", *ibid*.

paid by the employer during the previous year and the amount of such compensation, together with such other particulars as to the compensation as the ¹[Provincial Government] may direct

17. Contracting out.—Any contract or agreement whether made before or after the commencement of this Act, whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Act

18. Proof of age.—Where any question arises as to the age of person injured by accident arising out of and in the course of his employment in a factory, ²[a valid certificate granted in respect of such person under section 12 or section 52 of the Factories Act, 1934 (XXV of 1934)] before the occurrence of the injury shall be conclusive proof of the age of such person.

³[**18A. Penalties.**—(1) Whoever—

- (a) fails to maintain a notice-book which he is required to maintain under sub-section (3) of section 10, or
- (b) fails to send to the Commissioner a statement which he is required to send under sub-section (1) of section 10A, or
- (c) fails to send a report which he is required to send under section 10B, or
- (d) fails to make a return which he is required to make under section 16,

shall be punishable with fine which may extend to one hundred rupees.

(2) No prosecution under this section shall be instituted except by or with the previous sanction of a Commissioner, and no Court shall take cognizance of any offence under this section, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.]

¹ These words were substituted for the words "Governor-General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937

² These words and figures were substituted for the words and figures "a certificate granted in respect of such person under section 7 or section 8 of the Indian Factories Act, 1911" by s. 8 of the Workmen's Compensation (Amendment) Act, 1938 (IX of 1938).

³ This section was inserted by s. 11 of the Workmen's Compensation (Amendment Act, 1933 (XV of 1933)).

CHAPTER III

COMMISSIONERS

19. Reference to Commissioners.—(1) If any question arises in any proceedings under this Act as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not a workman) or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), the question shall, in default of agreement, be settled by ¹[a Commissioner].

(2) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Act.

20. Appointment of Commissioners.—(1) The ²[Provincial Government] may, by notification in the ³[Official Gazette], appoint any person to be a Commissioner for Workmen's Compensation for such local area as may be specified in the notification

⁴[(2) Where more than one Commissioner has been appointed for any local area, the ²[Provincial Government] may, by general or special order, regulate the distribution of business between them]

⁵[(3) Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

⁶[(4) Every Commissioner shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860).

21. Venue of proceedings and transfer.—(1) Where any matter is under this Act to be done by or before a Commissioner, the same shall, subject to the provisions of this Act and to any rules made hereunder, be done by or before ⁶[a Commissioner] for the

¹ These words were substituted for the words "the commissioner" by s 12 of the Workmen's Compensation (Amendment) Act, 1933 (XV of 1933)

² These words were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937

³ These words were substituted for the words "local official Gazette", *ibid.*

⁴ New sub-section (2) was inserted by s 13 of the Workmen's Compensation (Amendment) Act, 1933 (XV of 1933).

⁵ The old sub-section (2) and (3) were re-numbered (3) and (4), *ibid.*

⁶ These words were substituted for the words "the Commissioner" by 1, *ibid.*

local area in which the accident took place which resulted in the injury .

Provided that, where the workman is the master of a ¹ship or a seaman, any such matter may be done by or before ²[a Commissioner] for the local area in which the owner or agent of the ship resides or carries on business.

(2) If a Commissioner is satisfied ³[that any matter arising out of any proceedings pending before him] can be more conveniently dealt with by any other Commissioner, whether in the same Province or not, he may, subject to rules made under this Act, order such matter to be transferred to such other Commissioner either for report or for disposal, and, if he does so, shall forthwith transmit to such other Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings

⁴[Provided that the Commissioner shall not, where any party to the proceedings has appeared before him, make any order of transfer relating to the distribution among dependants of a lump sum without giving such party an opportunity of being heard]

Provided ⁵[further], that no matter other than a matter relating to the actual payment to a workman or the distribution among dependants of a lump sum shall be transferred for disposal under this sub-section to a Commissioner in the same Province save with the previous sanction of the ⁶[Provincial Government] or to a Commissioner in another Province save with the previous sanction of ⁷[the Provincial Government of that Province], unless all the parties to the proceedings agree to the transfer.

(3) The Commissioner to whom any matter is so transferred shall, subject to rules made under this Act, inquire thereinto and, if the

¹ The word "registered" was omitted, *ibid*

² These words were substituted for the words "the Commissioner" by 1, *ibid*

³ These words were substituted for the words "by any party to any proceedings under this Act pending before him that such matter" by s 9 of the Workmen's Compensation (Amendment) Act, 1938 (IX of 1938)

⁴ This proviso was inserted, *ibid*.

⁵ This word was inserted, *ibid*

⁶ These words were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937

⁷ These words were substituted for the words "the Governor General in Council", *ibid*

matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(4) On receipt of a report from a Commissioner to whom any matter has been transferred for report under sub-section (2), the Commissioner by whom it was referred shall decide the matter referred in conformity with such report.

¹[(5) The ²[Provincial Government] may transfer any matter from any Commissioner appointed by it to any other Commissioner appointed by it]

22. Form of application.—(1) No application for the settlement of any matter by a Commissioner, ³[other than an application by a dependant or dependants for compensation,] shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement

(2) ⁴[An application to a Commissioner] may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars namely.—

- (a) a concise statement of the circumstances in which the application is made and the relief or order which the applicant claims ;
- (b) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission ;
- (c) the names and addresses of the parties ; and
- (d) ⁵[except in the case of an application by dependants for compensation] a concise statement of the matters on which agreement has not ⁵[of] those on which agreement has not been come to.

¹ This sub-section was inserted by s. 14 of the Workmen's Compensation (Amendment) Act, 1933 (XV of 1933).

² These words were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937

³ These words were inserted by s. 15 of the Workmen's Compensation (Amendment) Act, 1933 (XV of 1933)

⁴ These words were substituted for the words "Where any such question has arisen, the application", *ibid.*

⁵ This word was substituted for the word "on" by s. 2 and First Schedule of the Repealing and Amending Act, 1925 (XXXVII of 1925).

(3) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

¹[**22A. Power of Commissioner to require further deposit in cases of fatal accident.**—(1) Where any sum has been deposited by an employer as compensation payable in respect of a workman whose injury has resulted in death, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

(2) If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit the deficiency.]

23. Powers and procedure of Commissioners.—The Commissioner shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects, ²[and the Commissioner shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898)

24. Appearance of parties.—Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or ³[by an official of an Insurance Company or registered Trade Union authorised in writing by such person or, with the permission of the Commissioner, by any other person so authorised].

¹ This section was inserted by s. 16 of the Workmen's Compensation (Amendment) Act, 1933 (XV of 1933).

² These words were added by s. 5 of the Workmen's Compensation (Amendment) Act, 1929 (V of 1929).

³ These words were substituted for the words "other person authorised in writing by such person" by s. 10 of the Workmen's Compensation (Amendment) Act, 1938 (IX of 1938).

25. Method of recording evidence.—The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be written and signed by the Commissioner with his own hand and shall form part of the record :

Provided that, if the Commissioner is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record :

Provided further that the evidence of any medical witness shall be taken down as nearly as may be word for word.

26. Costs.—All costs, incidental to any proceedings before a Commissioner shall, subject to rules made under this Act, be in the discretion of the Commissioner.

27. Power to submit cases.—A Commissioner may, if he thinks fit, submit any question of law for the decision of the High Court and, if he does so, shall decide the question in conformity with such decision.

28. Registration of agreements.—(1) Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable ¹[to a woman or a person under a legal disability] ²: and a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner

Provided that—

(a) no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned ;

(c) the Commissioner may at any time rectify the register ;

¹ These words were substituted for the words "to a person under a legal disability" by s. 6 of the Workmen's Compensation (Amendment) Act, 1929 (V of 1929).

² The words "or to a dependant" were repealed by s. 3 and Second Schedule of the Repealing and Amending Act, 1924 (VII of 1924).

³ Clause (b) was omitted by s. 6 of the Workmen's Compensation (Amendment) Act, 1929 (V of 1929).

- (d) where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable ¹[to a woman or a person under a legal disability] ²: : ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement ³[and may make such order] including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

(2) An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Act notwithstanding anything contained in the Indian Contract Act, 1872 (IX of 1872), or in any other law for the time being in force.

29. Effect of failure to register agreement.—Where a memorandum of any agreement the registration of which is required by section 28, is not sent to the Commissioner as required by that section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Act, and notwithstanding anything contained in the proviso to sub-section (1) of section 4, shall not, unless the Commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the workman by way of compensation whether under the agreement or otherwise

30. Appeals.—(1) An appeal shall lie to the High Court from the following orders of a Commissioner, namely —

- (a) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum ;
- (b) an order refusing to allow redemption of a half-monthly payment ;

¹ These words were substituted for the words "to a person under legal disability", *ibid.*

² The words "or to any dependant" were repealed by s 3 and Second Schedule of the Repealing and Amending Act, 1924 (VII of 1924)

³ These words were substituted for the words "or may make such order" by s 2 and First Schedule, *ibid.*

- (c) an order providing for the distribution of compensation among the dependants of a deceased workman, or disallowing any claim of a person alleging himself to be such dependant ;
- (d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 12 ; or
- (e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and, in the case of an order other than an order such as is referred to in clause (b), unless the amount in dispute in the appeal is not less than three hundred rupees :

Provided, further, that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties :

¹[Provided further that no appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.]

(2) The period of limitation for an appeal under this section shall be sixty days.

(3) The provisions of section 5 of the Indian Limitation Act, 1908 (IX of 1908), shall be applicable to appeals under this section.

²[**30A. Withholding of certain payments pending decision of appeal**—Where an employer makes an appeal under clause (a) of sub-section (1) of section 30, the Commissioner may, and if so directed by the High Court shall, pending the decision of the appeal, withhold payment of any sum in deposit with him.]

31. Recovery.—The Commissioner may recover as an arrear of land-revenue any amount payable by any person under this Act, whether under an agreement for the payment of compensation or

¹ This provision was added by s. 17 of the Workmen's Compensation (Amendment) Act, 1933 (XV of 1933).

² This section was inserted by s. 18, *ibid*.

otherwise, and the Commissioner shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890 (I of 1890).

CHAPTER IV—RULES.

32. Power of the Provincial Government to make rules.—

(1) The ¹[Provincial Government] may make rules to carry out the purposes of this Act

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely .—

- (a) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 6 when not accompanied by a medical certificate ;
- (b) for prescribing the intervals at which and the conditions subject to which a workman may be required to submit himself for medical examination under sub-section (1) of section 11 ;
- (c) for prescribing the procedure to be followed by Commissioners in the disposal of cases under this Act and by the parties in such cases ;
- (d) for regulating the transfer of matters and cases from one Commissioner to another and the transfer of money in such cases ;
- (e) for prescribing the manner in which money in the hands of a Commissioner may be invested for the benefit of dependants of a deceased workman and for the transfer of money so invested from one Commissioner to another ;
- (f) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance ;
- (g) for prescribing the form and manner in which memoranda of agreements shall be presented and registered ;

¹ These words were substituted for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

(k) for the withholding by Commissioners whether in whole or in part of half-monthly payments pending decision on applications for review of the same ;^{1*}

²[(i)] for regulating the scales of costs which may be allowed in proceedings under this Act ;

²[(j)] for prescribing and determining the amount of the fees payable in respect of any proceedings before a Commissioner under this Act ;

²[(k)] for the maintenance by Commissioners of registers and records of proceedings before them ;

²[(l)] for prescribing the classes of employers who shall maintain notice-books under sub-section (3) of section 10, and the form of such notice-books ;

²[(m)] for prescribing the form of statement to be submitted by employers under section 10A ; ³[and] ;

²[(n)] for prescribing the cases in which the report referred to in section 10B may be sent to an authority other than the Commissioner.^{3*}

34. Publication of rules.—(1) The power to make rules conferred by ⁴[section 32] shall be subject to the condition of the rules being made after previous publication.

(2) the date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), as that after which a draft of rules proposed to be made under section 32 ⁵* * * will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

¹ The word "and" and clause (i) were omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.

² Clause (a) to (f) of section 33 after being re-lettered as (i) to (n) respectively were added to section 32 and the rest of section 33 was omitted, *ibid.*

³ This word "and" at the end of clause (m) as so re-lettered was inserted and the word "and" at the end of clause (n) as so re-lettered was omitted, *ibid.*

⁴ This word and figures were substituted for the words and figures "sections 32 and 33", *ibid.*

⁵ The words and figures "or section 33" were omitted, *ibid.*

(3) Rules so made shall be published in ¹the ²[Official Gazette], ³and, on such publication, shall have effect as if enacted in this Act.

⁴[35. Rules to give effect to arrangements with other countries for the transfer of money paid as compensation.—

⁵[(1)] The ⁶[Central Government] may, by notification in the ⁷[Official Gazette], make rules for the transfer ⁸[to any Acceding State or] to any part of His Majesty's Dominions or to any other country of money ⁹[deposited with] a Commissioner under this Act ¹⁰[which has been awarded to, or may be due to,] any person residing or about to reside in such ¹¹[State], part or country and for the receipt ¹²[distribution] and administration in ¹³[the Provinces] of any money ¹⁴[deposited] under the law relating to workmen's compensation in ¹⁵[in any Acceding State or] in any part of His Majesty's Dominions or in any other country, ¹⁶[which has been awarded to, or may be due to,] any person residing or about to reside in ¹⁷[the Provinces].

¹⁷[Provided that no sum deposited under this Act in respect of fatal accidents shall be so transferred without the consent of the

¹ The words "the Gazette of India or" were omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "local official Gazette", *ibid*

³ The words "as the case may be" were omitted, *ibid*

⁴ Section 35 was inserted by s 20 of the Workmen's Compensation (Amendment) Act, 1933 (XV of 1933).

⁵ Section 35 was re-numbered as sub-section (1) of that section by s 2 of the Workmen's Compensation (Amendment) Act, 1937 (VII of 1937)

⁶ These words were substituted for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937

⁷ These words were substituted for the words "Gazette of India", *ibid*

⁸ These words were inserted by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948

⁹ These words were substituted for the words "paid to" by s 2 of the Workmen's Compensation (Amendment) Act, 1937 (VII of 1937).

¹⁰ These words were substituted for the words "for the benefit of", *ibid*

¹¹ This word was inserted by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948

¹² This word was inserted by s 2 of the Workmen's Compensation (Amendment) Act, 1937 (VII of 1937).

¹³ These words were substituted for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

¹⁴ These words were substituted for the word "awarded" by s 2 of the Workmen's Compensation (Amendment) Act, 1937 (VII of 1937)

¹⁵ These words were inserted by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

¹⁶ These words were substituted for the words "and applicable for the benefits of" by s. 2 of the Workmen's Compensation (Amendment) Act, 1937 (VII of 1937).

¹⁷ The Proviso and the sub-section (2) was added, *ibid*.

employer concerned until the Commissioner receiving the sum has passed orders determining its distribution and apportionment under the provisions of sub-sections (4) and (5) of section 8.

(2) Where money deposited with a Commissioner has been so transferred in accordance with the rules made under this section, the provisions elsewhere contained in this Act regarding distribution by the Commissioner of compensation deposited with him shall cease to apply in respect of any such money.]

SCHEDULE I—[See sections 2 (1) and 4]

List of injuries deemed to result in permanent partial disablement.

Injury	Percentage of loss of earning capacity
Loss of right arm above or at the elbow	70
Loss of left arm above or at the elbow	60
Loss of right arm below the elbow	60
Loss of leg at or above the knee	60
Loss of left arm below the elbow	50
Loss of leg below the knee	50
Permanent total loss of hearing	50
Loss of one eye	30
Loss of thumb	25
Loss of all toes of one foot	20
Loss of one phalanx of thumb	10
Loss of index finger	10
Loss of great toe	10
Loss of any finger other than index finger	5

NOTE—Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.

SCHEDULE II—[See section 2 (I) (n)]

List of person who, subject to the provisions of section 2 (1) (n), are included in the definition of workmen.

The following persons are workmen within the meaning of section 2 (1) (n) and subject to the provisions of that section, that is to say, any person who is—

¹(i) employed, otherwise than in a clerical capacity or on a railway, in connection with the operation or maintenance of ²[a lift or a vehicle propelled by steam or other mechanical power or by electricity], or

(ii) employed otherwise than in a clerical capacity in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been employed in any manufacturing process, as defined in ³[clause (g) of section 2 of the Factories Act, 1934 (XXXV of 1934)], or in any kind of work whatsoever incidental to or connected with any such manufacturing process or with the article made, and steam, water or other mechanical power or electrical power is used, or

(iii) employed for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of an article in any premises wherein or within the precincts whereof on any one day of the preceding twelve months, fifty or more persons have been so employed, or

(iv) employed in the manufacture or handling of explosives in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed, or

(v) employed, in any mine as defined in clause (f) of section 3 of the Indian Mines Act, 1923 (IV of 1923), in any mining operation, or in any kind of work, other than clerical work, incidental to or connected with any mining operation or with the mineral obtained, or in any kind of work whatsoever below ground

Provided that any excavation in which on no day of the preceding twelve months more than fifty persons have been employed or explosives have been used and whose depth from its highest to its lowest point does not exceed twenty feet shall be deemed not to be a mine for the purpose of this clause, or

(vi) employed as the master or as a seaman of—

(a) any ship which is propelled wholly or in part by steam or other mechanical power or by electricity or which is towed or intended to be towed by a ship so propelled, or

¹ These clauses and the explanation were substituted by s. 21 of the Workmen's Compensation (Amendment) Act, 1933 (XXV of 1933)

² These words were substituted for the words "mechanically propelled vehicles" by s. 11 of the Workmen's Compensation (Amendment) Act, 1938 (IX of 1938)

³ These words, brackets, letter and figures were substituted for the words, brackets and figures "clause (4) of section 2 of the Indian Factories Act, 1911", *ibid*

(b) any ship not included in sub-clause (a) of fifty tons net tonnage or over, or

(vu) employed for the purpose of loading, unloading, fuelling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew, or in the handling or transport within the limits of any port subject to the Indian Ports Act, 1908 (XV of 1908), of goods which have been discharged from or are to be loaded into any vessel, or

(viii) employed in the construction, repair or demolition of—

(a) any building which is designed to be or is or has been more than one storey in height above the ground or twenty feet or more from the ground level to the apex of the roof, or

(b) any dam or embankment which is twenty feet or more in height from its lowest to its highest point, or

(c) any road, bridge, or tunnel, or

(d) any wharf, quay, sea-wall or the marine work including any moorings of ships, or

(ix) employed in setting up, repairing, maintaining, or taking down any telegraph or telephone line or post of any over-head electric line or cable or post or standard for the same; or

(x) employed, otherwise than in a clerical capacity, in the construction, working, repair or demolition of any aerial ropeway, canal, pipe-line, or sewer, or

(xi) employed in the service of any fire brigade, or

(xii) employed upon a railway as defined in clause (4) of section 3, and sub-section (1) of section 148 of the Indian Railways Act, 1890 (IX of 1890), either directly or through a sub-contractor, by a person fulfilling a contract with the railway administration; or

(xiii) employed as an inspector, mail guard, sorter or van peon in the Railway Mail Service, or employed in any occupation ordinarily involving outdoor work in the Indian Posts and Telegraphs Department; or

(xiv) employed, otherwise than in a clerical capacity, in connection with operations for winning natural petroleum or natural gas; or

(xv) employed in any occupation involving blasting operations, or

(xvi) employed in the making of any excavation in which on any one day of the preceding twelve months more than fifty persons have been employed or explosives have been used, or whose depth from its highest to its lowest point exceeds twenty feet; or

(xvii) employed in the operation of any ferry boat capable of carrying more than ten persons; or

(xviii) employed, otherwise than in a clerical capacity, on any estate which is maintained for the purpose of growing cinchona, coffee, rubber or tea, and on which on any one day in the preceding twelve months twenty-five or more persons have been so employed, or

(*xxix*) employed, otherwise than in a clerical capacity, in the generating, transforming, or supplying of electrical energy or in the generating or supplying of gas, or

(*xx*) employed in a lighthouse as defined in clause (d) of section 2 of the Indian Lighthouse Act, 1927 (XVII of 1927), or

(*xxi*) employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures, or

(*xxii*) employed in the training, keeping, or working of elephants or wild animals, or

¹[*xxiii*] employed in the tapping of palm-trees or the felling or logging of trees, or the transport of timber by inland waters, or the control or extinguishing of forest fires, or

(*xxiv*) employed in operations for the catching or hunting of elephants or other wild animals, or]

¹[*xxv*] employed as a diver; ²[or]

²[*xxvi*] employed in the handling or transport of goods in, or within the precincts of,—

(a) any warehouse or other place in which goods are stored, and in which on any one day of the preceding twelve months ten or more persons have been so employed, or

(b) any market in which on any one day of the preceding twelve months one hundred or more persons have been so employed, or

(*xxvii*) employed in any occupation involving the handling and manipulation of radium or X-rays apparatus, or contact with radio-active substances]

Explanation—In this Schedule “the preceding twelve months” relates in any particular case to the twelve months ending with the day on which the accident in such case occurred]

¹ Clauses (*xxiii*) and (*xxiv*) were inserted and the original clause (*xxiii*) was re-numbered (*xxv*) by s 11 of the Workmen's Compensation (Amendment) Act, 1938 (IX of 1938).

² The word “or” and clauses (*xxvi*) and (*xxvii*) were inserted, *ibid*.

SCHEDULE III—(See section 3.)

List of Occupational Diseases

Occupational disease	Employment
¹ [PART A	
✓ Anthrax	Any employment— (a) involving the handling of wool, ✓ hair, bristles or animal carcasses or parts of such carcasses, including hides, hoofs and horns, or (b) in connection with animals in- fected with anthrax, or (c) involving the loading, unloading or ✓ transport of any merchandise
Compressed air illness or its sequelae	Any process carried on in compressed air
✓ Poisoning by lead tetra-ethyl	Any process involving the use of lead tetra-ethyl
Poisoning by nitrous fumes	Any process involving exposure to nitrous fumes
PART B]	
✓ Lead poisoning or its sequelae ² [exclud- ing poisoning by lead tetra-ethyl]	Any process involving the use of lead ³ [or any of its preparations or com- pounds except lead tetra-ethyl]
✓ Phosphorus poisoning	Any process involving the use of phosphorus or its preparations or compounds.
⁴ [Mercury poisoning or its sequelae	Any process involving the use of mercury or its preparations or com- pounds.
Poisoning by benzene and its homolo- gues, or the sequelae of such poison- ing	Handling benzene or any of its homo- logues and any process in the manu- facture or involving the use of ben- zene or any of its homologues
✓ Chrome ulceration or its sequelae	Any process involving the use of chromic acid or bichromate of ammo- nium, potassium or sodium, or their preparations.
⁵ [Arsenical poisoning or its sequelae	Any process involving the production, liberation or utilisation of arsenic or its compounds
Pathological manifestations due to— (a) radium and other radio-active substances, (b) X-rays	Any process involving exposure to the action of radium, radio-active sub- stances, or X-rays.
✓ Primary epitheliomatous cancer of the the skin	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these sub- stances.]

¹ Part A and the word and letter "Part B" were inserted by s. 12 of the Workmen's Compensation (Amendment) Act, 1938 (IX of 1938).

² These words were added, *ibid.*

³ These words were substituted for the words "or its preparations or compounds", *ibid.*

⁴ These entries were added by s. 22 of the Workmen's Compensation (Amendment) Act, 1933 (XV of 1933).

⁵ These entries were substituted by s. 12 of the Workmen's Compensation (Amendment) Act, 1938 (IX of 1938).

[SCHEDULE IV—(See section 4)]

Compensation payable in certain cases

Monthly wages of the workman injured		Amount of compensation for—		Half-monthly payment as compensation for Temporary Disablement of Adult
		Death of Adult	Permanent total Dis-ablement of Adult	
1		2	3	4
More than Rs 0	But not more than Rs 10	Rs 500	Rs 700	Half his monthly wages
10	15	550	770	5 0
15	18	600	840	6 0
18	21	630	882	7 0
21	24	720	1,008	8 0
24	27	810	1,134	8 8
27	30	900	1,260	9 0
30	35	1,050	1,470	9 8
35	40	1,200	1,680	10 0
40	45	1,350	1,890	11 4
45	50	1,500	2,100	12 8
50	60	1,800	2,520	15 0
60	70	2,100	2,940	17 8
70	80	2,400	3,330	20 0
80	100	3,000	4,200	25 0
100	200	3,500	4,900	30 0
² [200	300	4,000	5,600	30 0
300		4,500	6,300	30 0]

¹ This Schedule was substituted by s 23 of the Workmen's Compensation (Amendment) Act, 1933 (XV of 1933)

² These entries were substituted by s 3 of the Workmen's Compensation (Amendment) Act, 1946 (1 of 1946)

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WORKMEN'S COMPENSATION RULES, 1924¹

In exercise of the powers conferred by section 32 of the Workmen's Compensation Act, 1923 (VIII of 1923), the Central Government is pleased to make the following rules.—

PRELIMINARY.

1. *Short title.*—These rules may be called the Workmen's Compensation Rules, 1924.
2. *Definitions*—In these rules, unless there is anything repugnant in the subject or context,—
 - (a) "the Act" means the Workmen's Compensation Act, 1923 ;
 - (b) "Form" means a form appended to these rules ;
 - (c) "section" means a section of the Act.

PART I.

REVIEW OF HALF-MONTHLY PAYMENTS AND COMMUTATION THEREOF

3. *When application may be made without medical certificate*—Application for review of a half-monthly payment under section 6 may be made without being accompanied by a medical certificate—
 - (a) by the employer, on the ground that since the right to compensation was determined the workman's wages have increased ;
 - (b) by the workman, on the ground that since the right to compensation was determined his wages have diminished ;
 - (c) by the workman, on the ground that the employer, having commenced to pay compensation, has ceased to pay the same, not—

¹ These Rules were published under Department of Industries and Labour Notification No. L-1182 dated 26th June 1924, as subsequently amended.

withstanding the fact that there has been no change in the workman's condition such as to warrant such cessation,

(d) either by the employer or by the workman, on the ground that the determination of the rate of compensation for the time being in force was obtained by fraud or undue influence or other improper means;

(e) either by the employer or by the workman on the ground that in the determination of compensation there is a mistake or error apparent on the face of the record.

4. *Procedure on application for review*—If, on examining an application for review by an employer in which the reduction or discontinuance of half-monthly payments is sought it appears to the Commissioner that there is reasonable ground for believing that the employer has a right to such reduction or discontinuance, he may at any time issue an order withholding the half-monthly payments in whole or in part pending his decision on the application.

5. *Procedure on application for commutation*—(1) Where application is made to the Commissioner under section 7 for the redemption of a right to receive half-monthly payments by the payment of a lump sum, the Commissioner shall form an estimate of the probable duration of the disablement, and shall award a sum equivalent to the total of the half-monthly payments which would be payable for the period during which he estimates that the disablement will continue, less one-half per cent of that total for each month comprised in that period:

Provided that fractions of a rupee included in the sum so computed shall be disregarded.

(2) When, in any case to which sub-rule (1) applies, the Commissioner is unable to form an approximate estimate of the probable duration of the disablement, he may from time to time postpone a decision on the application for a period not exceeding two months at any one time.

PART II.

DEPOSIT OF COMPENSATION.

6. *Deposit under section 8 (1)*—(1) An employer depositing compensation with the Commissioner under sub-section (1) of section 8 in respect of a workman whose injury has resulted in death shall furnish therewith a statement in Form A, and shall be given a receipt

in Form B. In other cases of deposits with the Commissioner under sub-section (1) of section 8, the employer shall furnish a statement in Form AA, and shall be given a receipt in Form B.

(2) If when depositing compensation in respect of fatal accidents, the employer indicates in the statement referred to in sub-rule (1) that he desires to be made a party to the distribution proceedings, the Commissioner, shall, before allotting the sum deposited as compensation, afford to the employer an opportunity of establishing that the person to whom he proposes to allot such sum is not a dependant of the deceased workman or, as the case may be, that no one of such persons is a dependent.

(3) The statement of disbursements to be furnished on application by the employer under sub-section (4) of section 8 shall be in Form C.

7. *Publication of lists of deposits*—The Commissioner shall cause to be displayed in a prominent position outside his office an accurate list of the deposits received by him under sub-section (1) of section 8, together with the names and addresses of the depositors and of the workmen in respect of whose death or injury the deposits have been made.

8. *Application by dependants for deposit of compensation.*—

(1) A dependant of a deceased workman may apply to the Commissioner for the issue of an order to deposit compensation in respect of the death of the workman. Such application shall be made in Form G.

(2) If compensation has not been deposited the Commissioner shall dispose of such application in accordance with the provisions of Part V of these rules :

Provided that—

(a) the Commissioner may, at any time before issues are framed, cause notice to be given in such manner as he thinks fit to all or any of the dependants of the deceased workman who have not joined in the application, requiring them, if they desire to join therein, to appear before him on a date specified in this behalf ;

(b) any dependant to whom such notice has been given and who fails to appear and to join in the application on the date specified in the notice shall not be permitted thereafter to claim that the employer is liable to deposit compensation unless he satisfies the Commissioner that he was prevented by any sufficient cause from appearing when the case was called on for hearing.

(3) If, after completing the enquiry into the application, the Commissioner issues an order requiring the employer to deposit compensation in accordance with sub-section (1) of section 8, nothing in sub-rule (2) shall be deemed to prohibit the allotment of any part of the sum deposited as compensation to a dependant of the deceased workman who failed to join the application.

9. *Deposit under section 8 (2)*—An employer depositing compensation in accordance with sub-section (2) of section 8, shall furnish therewith a statement in Form D, and shall be given a receipt in Form E.

10. *Investment of money*—Money in the hands of Commissioner may be invested for the benefit of the dependants of a deceased workman in Government securities or Post Office Cash Certificates, or may be deposited in a Post Office Savings Bank.

PART III.

REPORTS OF ACCIDENTS.

11. *Report of fatal accidents*—The report required by section 10B shall, subject to such rules, if any, as may be made by the Local Government, be in Form EE.

12. *Right of employer to present memorandum when information received*—(1) Any employer who has received information of an accident may at any time, notwithstanding the fact that no claim for compensation has been instituted in respect of such accident, present to the Commissioner a memorandum, supported by an affidavit made by himself or by any person subordinate to him having knowledge of the facts stated in the memorandum, embodying the results of any investigation or inquiry which has been made into the circumstances or cause of the accident

(2) A memorandum presented under sub-rule (1) shall, subject to the payment of such fee as may be prescribed, be recorded by the Commissioner

PART IV.

MEDICAL EXAMINATION.

13. *Workman not to be required to submit to medical examination save in accordance with rules.*—A workman who is required by sub-section (1) of section 11 to submit himself for medical examina-

tion shall be bound to do so in accordance with the rules contained in this Part and not otherwise.

14. Examination when workman and medical practitioner both on premises.—When such workman is present on the employer's premises, and the employer offers to have him examined free of charge by a qualified medical practitioner who is so present, the workman shall submit himself for examination forthwith

15. Examination in other cases.—In cases to which rule 14 does not apply with employer may—

(a) send the medical practitioner to the place where the workman is residing for the time being, in which case the workman shall submit himself for medical examination on being requested to do so by the medical practitioner, or

(b) send to the workman an offer in writing to have him examined free of charge by a qualified medical practitioner, in which case the workman shall submit himself for medical examination at the employer's premises or at such other place in the vicinity as is specified in such offer and at such time as is so specified

Provided that—

(i) the time so specified shall not, save with the express consent of the workman, be between the hours of 7 P.M. and 6 A.M., and

(ii) in cases where the workman's condition renders it impossible or inadvisable that he should leave the place where he is residing for the time being, he shall not be required to submit himself for medical examination save at such place.

16. Restriction on number of examinations.—A workman who is in receipt of a half-monthly payment shall not be required to submit himself for medical examination elsewhere than at the place where he is residing for the time being more than twice in the first month following the accident, or more than once in any subsequent month.

17. Examination after suspension of right to compensation — If a workman whose right to compensation has been suspended under sub-section (2) or sub-section (3) of section 11 subsequently offers himself for medical examination, his examination shall take place on the employer's premises or at such other place in the vicinity as may be fixed by the employer, and at a time to be fixed by the employer not being, save with the express consent of the workman, more than 72 hours after the workman has so offered himself.

18. Examination of women.—(1) No woman shall without her consent be medically examined by a male practitioner, save in the presence of another woman.

(2) No woman shall be required to be medically examined by a male practitioner if she deposits a sum sufficient to cover the expenses of examination by a female practitioner.

PART V.

PROCEDURE

19. Introductory—Save as otherwise provided in these rules, the procedure to be followed by Commissioners in the disposal of cases under the Act or these rules and by the parties in such cases shall be regulated in accordance with the rules contained in this Part

20. Applications—(1) Any application of the nature referred to in section 22 may be sent to the Commissioner by registered post or may be presented to him or to any of his subordinates authorised by him in this behalf and, if so sent or presented, shall, unless the Commissioner otherwise directs, be made in duplicate in the appropriate Form, if any, and shall be signed by the applicant

(2) There shall be appended to every such application a certificate, which shall be signed by the applicant, to the effect that the statement of facts contained in the application is to the best of his knowledge and belief accurate.

21. Production of documents.—(1) When the application for relief is based upon a document, the document shall be appended to the application

(2) Any other document which any party desires to tender in evidence shall be produced at or before the first hearing.

(3) Any document which is not produced at or within the time specified in sub-rule (1) or (2) as the case may be shall not, without the sanction of the Commissioner, be admissible in evidence on behalf of the party who should have produced it.

(4) Nothing in this rule applies to any document which is produced for the purpose of cross-examining a witness or is handed to a witness to refresh his memory.

22. Application presented to wrong Commissioner—(1) If it appears to the Commissioner on receiving the application that it

should be presented to another Commissioner, he shall return it to the applicant after endorsing upon it the date of the presentation and return, the reason for returning it and the designation of the Commissioner to whom it should be presented.

(2) If it appears to the Commissioner at any subsequent stage that an application should have been presented to another Commissioner, he shall send the application to the Commissioner empowered to deal with it and shall inform the applicant (and the opposite party, if he has received a copy of the application under rule 26), accordingly.

(3) The Commissioner to whom an application is transferred under sub-rule (2) may continue the proceedings as if the previous proceedings or any part of them had been taken before him, if he is satisfied that the interests of the parties will not thereby be prejudiced.

23. Examination of applicant.—(1) On receiving an application of the nature referred to in section 22, the Commissioner may examine the applicant on oath, or may send the application to any officer authorised by the Provincial Government in this behalf and direct such officer to examine the applicant and his witnesses and forward the record thereof to the Commissioner.

(2) The substance of any examination made under sub-rule (1) shall be recorded in the manner provided for the recording of evidence in section 25.

24. Summary dismissal of application.—(1) The Commissioner may, after considering the application and the result of any examination of the applicant under rule 23, summarily dismiss the application, if, for reasons to be recorded he is of opinion that there are no sufficient grounds for proceeding thereon.

(2) The dismissal of the application under sub-rule (1) shall not of itself preclude the applicant from presenting a fresh application for the settlement of the same matter.

25. Preliminary inquiry into application.—If the application is not dismissed under rule 24, the Commissioner may, for reasons to be recorded, call upon the applicant to produce evidence in support of the application before calling upon any other party, and, if upon considering such evidence the Commissioner is of opinion that there is no case for the relief claimed, he may dismiss the application with a brief statement of his reasons for so doing.

26. Notice to opposite party.—If the Commissioner does not dismiss the application under rule 24 or rule 25, he shall send to

the party from whom the applicant claims relief (hereinafter referred to as the opposite party), a copy of the application, together with a notice of the date on which he will dispose of the application, and may call upon the parties to produce upon that date any evidence which they may wish to tender.

27. *Appearance and examination of opposite party.*—(1) The opposite party may, and if so required by the Commissioner, shall, at or before the first hearing or within such time as the Commissioner may permit, file a written statement dealing with the claim raised in the application, and any such written statement shall form part of the record.

(2) If the opposite party contests the claim, the Commissioner may, and, if no written statement has been filed, shall proceed to examine him upon the claim, and shall reduce the result of the examination to writing.

28. *Framing of issues*—(1) After considering any written statement and the result of any examination of the parties, the Commissioner shall ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues upon which the right decision of the case appears to him to depend.

(2) In recording the issues, the Commissioner shall distinguish between those issues which in his opinion concern points of fact and those which concern points of law.

29. *Power to postpone trial of issues of fact where issues of law arise.*—When issues both of law and of fact arise in the same case, and the Commissioner is of opinion that the case may be disposed of on the issues of law only, he may try those issues first, and for that purpose may, if he thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined.

30. *Diary.*—The Commissioner shall maintain under his hand a brief diary of the proceedings on an application.

31. *Reasons for postponement to be recorded.*—If the Commissioner finds it impossible to dispose of an application at one hearing he shall record the reasons which necessitate a postponement.

32. *Judgment.*—(1) The Commissioner, in passing orders, shall record concisely in a judgment his finding on each of the issues framed and his reasons for such finding.

(2) The Commissioner, at the time of signing and dating his judgment, shall pronounce his decision, and thereafter no addition or alteration shall be made to the judgment other than the correction of a clerical or arithmetical mistake arising from any accidental slip or omission.

33. *Summoning of witnesses.*—If an application is presented by any party to the proceedings for the citation of witnesses, the Commissioner shall on payment of the prescribed expenses and fees, issue summonses for the appearance of such witnesses, unless he considers that their appearance is not necessary for the just decision of the case.

34. *Exemption from payment of costs.*—If the Commissioner is satisfied that the applicant is unable, by reason of poverty, to pay the prescribed fees, he may remit any or all of such fees. If the case is decided in favour of the applicant, the prescribed fees which, had they not been remitted, would have been due to be paid, may be added to the costs of the case and recovered in such manner as the Commissioner in his order regarding costs may direct.

35. *Right of entry for local inspection.*—A Commissioner before whom any proceeding relating to an injury by accident is pending may at any time enter the place where the workman was injured, or where the workman ordinarily performed his work, for the purpose of making a local inspection or of examining any persons likely to be able to give information relevant to the proceedings:

Provided that the Commissioner shall not enter any premises of any industrial establishment except during the ordinary working hours of that establishment, save with the permission of the employer or of some person directly responsible to him for the management of the establishment.

36. *Procedure in connection with local inspection.*—(1) If the Commissioner proposes to conduct a local inspection with a view to examining on the spot the circumstances in which an accident took place, he shall give the parties or their representatives notice of his intention to conduct such inspection, unless in his opinion the urgency of the case renders the giving of such notice impracticable.

(2) Such notice may be given orally or in writing, and, in the case of an employer, may be given to any person upon whom notice of a claim can be served under sub-section (2) of section 10, or to the representative of any such person.

(3) Any party, or the representative of any party, may accompany the Commissioner at a local inspection.

(4) The Commissioner, after making a local inspection, shall note briefly in a memorandum any facts observed, and shall show the memorandum to any party who desires to see the same, and, on payment of the prescribed fee, shall supply any party with a copy thereof.

(5) The memorandum shall form part of the record.

37. Power of summary examination—(1) The Commissioner during a local inspection or at any other time, save at a formal hearing of a case pending before him, may examine summarily any person likely to be able to give information relative to such case, whether such person has been or is to be called as a witness in the case or not, and whether any or all of the parties are present or not.

(2) No oath shall be administered to a person examined under sub-rule (1).

(3) Statements made by persons examined under sub-rule (1), if reduced to writing, shall not be signed by the person making the statement, nor shall they, except as hereinafter provided, be incorporated in the record or utilised by the Commissioner for the purpose of arriving at a decision in the case.

(4) If a witness who has been examined under sub-rule (1) makes in evidence any material statement contradicting any statement made by him in such examination and reduced to writing, the Commissioner may call his attention to such statement, and shall in that case direct that the parties be furnished with the relevant part of such statement for the purpose of examining or cross-examining the witness.

(5) Any statement or part of a statement which is furnished to the parties under sub-rule (4) shall be incorporated in the record.

(6) Where a case is settled by agreement between the parties, the Commissioner may incorporate in the record any statement made under sub-rule (1), and may utilise such statement for the purpose of justifying his acceptance of, or refusal to accept, the agreement reached.

38. Agreement to abide by Commissioner's decision—(1) If a party states in writing his willingness to abide by the decision of the Commissioner, the Commissioner shall inquire whether the other party is willing to abide by his decision.

(2) If the other party agrees to abide by the Commissioner's decision, the fact of his agreement shall be recorded in writing and signed by him.

(3) If the other party does not agree to abide by the Commissioner's decision, the first party shall not remain under an obligation so to abide.

39. Procedure where indemnity claimed under section 12 (2) —

(1) Where the opposite party claims that if compensation is recovered against him he will be entitled under sub-section (2) of section 12 to be indemnified by a person not being a party to the case, he shall, when first called upon to answer the application, present a notice of such claim to the Commissioner accompanied by the prescribed fee, and the Commissioner shall thereupon issue notice to such person in Form J.

(2) If any person served with a notice under sub-rule (1) desires to contest the applicant's claim for compensation or the opposite party's claim to be indemnified, he shall appear before the Commissioner on the date fixed for the hearing of the case or on any date to which the case may be adjourned and, if he so appears, shall have all the rights of a party to the proceedings ; in default of so appearing he shall be deemed to admit the validity of any award made against the opposite party and to admit his own liability to indemnify the opposite party for any compensation recovered from him .

Provided that, if any person so served appears subsequently and satisfies the Commissioner that he was prevented by any sufficient cause from appearing, the Commissioner shall, after giving notice to the aforesaid opposite party, hear such person, and may set aside or vary any award made against such person under this rule upon such terms as may be just.

(3) If any person served with a notice under sub-rule (1), whether or not he desires to contest the applicant's claim for compensation or the opposite party's claim to be indemnified, claims that being a contractor he is himself a principal and is entitled to be indemnified by a person standing to him in the relation of a contractor from whom the workman could have recovered compensation he shall on or before the date fixed in the notice under sub-rule (1) present a notice of such claim to the Commissioner accompanied by the prescribed fee and the Commissioner shall thereupon issue notice to such person in Form JJ.

(4) If any person served with a notice under sub-rule (3) desires to contest the applicant's claim for compensation, or the claim under sub-rule (3) to be indemnified he shall appear before the Commissioner on the date fixed in the notice in Form JJ or on any date to which the case may be adjourned and, if he so appears, shall have all the rights of a party to the proceedings ; in default of so appearing he shall be deemed to admit the validity of any award made against the original opposite party or the person served with a notice under sub-rule (1) and to admit his own liability to indemnify the party against whom such award is made for any compensation recovered from him: Provided that, if any person so served appears subsequently and satisfies the Commissioner that he was prevented by any sufficient cause from appearing, the Commissioner shall, after giving notice to all parties on the record, hear such person, and may set aside or vary any award made against such person under this rule upon such terms as may be just

(5) In any proceeding in which a notice has been served on any person under sub-rule (1) or sub-rule (3) the Commissioner shall, if he awards compensation, record in his judgment a finding in respect of each of such persons whether he is or is not liable to indemnify any of the opposite parties, and shall specify the party, if any, whom he is liable to indemnify.

40. Procedure in connected cases.—(1) Where two or more cases pending before a Commissioner arise out of the same accident, and any issue involved is common to two or more such cases, such cases may, so far as the evidence bearing on such issue is concerned, be heard simultaneously.

(2) Where action is taken under sub-rule (1) the evidence bearing on the common issue or issues shall be recorded on the record of one case, and the Commissioner shall certify under his hand on the records of any such other case, the extent to which the evidence so recorded applies to such other case, and the fact that the parties to such other case had the opportunity of being present, and, if they were present of cross-examining the witnesses.

41. Certain provisions of Code of Civil Procedure, 1908, to apply—Save as otherwise expressly provided in the Act or these rules the following provisions of the First Schedule to the Code of Civil Procedure, 1908, namely, those contained in Order V, rules 9 to 13 and 15 to 30 ; Order IX ; Order XIII, rules 3 to 10 ; Order XVI,

rules 2 to 21 ; Order XVII ; and Order XXIII, rules 1 and 2, shall apply to proceedings before Commissioners, in so far as they may be applicable thereto :

Provided that—

(a) for the purpose of facilitating the application of the said provisions the Commissioner may construe them with such alterations not affecting the substance as may be necessary or proper to adopt them to the matter before him ;

(b) the Commissioner may, for sufficient reason, proceed otherwise than in accordance with the said provisions, if he is satisfied that the interests of the parties will not thereby be prejudiced.

42. *Provision regarding signature of forms*—Any form, other than a receipt for compensation, which is by these rules required to be signed by a Commissioner may be signed under his direction and on his behalf by any officer subordinate to him appointed by him in writing for this purpose.

43. *Apportionment of compensation among dependants.*—The provisions of this Part, except those contained in rules 26, 27 and 39 shall, as far as may be, apply in the case of any proceedings relating to the apportionment of compensation among dependants of a deceased workman.

PART VI

TRANSFER

44. *Transfer for report.*—(1) A Commissioner transferring any matter to another Commissioner for report in accordance with sub-section (2) of section 21 shall, along with the documents referred to in that sub-section, transmit to such other Commissioner a concise statement, in the form of questions for answer, of the matter on which report is required.

(2) A Commissioner to whom a case is so transferred for report shall not be required to report on any question of law.

45. *Transmission of money.*—Money transmitted by one Commissioner to another in accordance with sub-section (2) of section 21 shall be transmitted either by remittance transfer receipt, or by money order, or by messenger, as the Commissioner transmitting the money may direct.

PART VII

APPOINTMENT OF REPRESENTATIVES

46. *When representative must be appointed*—Where any party to a proceeding is under the age of 15 years or is unable to make an appearance, the Commissioner shall appoint some suitable person, who consents to the appointment, to represent such party for the purposes of the proceeding.

47. *When new representative to be appointed*—If the Commissioner considers that the interests of any party for whom a representative has been appointed under rule 46 are not being adequately protected by that representative or if a person appointed to act as representative dies or becomes incapable of acting, or otherwise ceases to act as such, the Commissioner shall appoint in his place another person who consents to the appointment.

PART VIII

RECORD OF MEMORANDA OF AGREEMENT

48. *Form of memorandum*—Memoranda of agreement sent to the Commissioner under sub-section (1) of section 28 shall unless the Commissioner otherwise directs be in duplicate, and shall be in as close conformity as the circumstances of the case admit with Form K or Form L, or Form M as the case may be

49. *Procedure where Commissioner does not consider that he should refuse to record memorandum*—(1) On receiving a memorandum of agreement, the Commissioner shall, unless he considers that there are grounds for refusing to record the memorandum, fix a date for recording the same, and shall issue a notice in writing in Form N to the parties concerned that in default of objections he proposes to record the memorandum on the date so fixed.

Provided that the notice may be communicated orally to any parties who are present at the time when notice in writing would otherwise issue.

(2) On the date so fixed, the Commissioner shall record the memorandum unless, after hearing any of the parties who appear and desire to be heard, he considers that it ought not to be recorded.

Provided that the issue of a notice under sub-rule (1) shall not be deemed to prevent the Commissioner from refusing to record the memorandum on the date so fixed even if no objection be made by any party concerned

(3) If on such date the Commissioner decides that the memorandum ought not to be recorded, he shall inform the parties present of his decision and of the reasons therefor, and, if any party desiring the memorandum to be recorded is not present, he shall send information to that party in Form O.

50. *Procedure where Commissioner considers he should refuse to record memorandum*—(1) If, on receiving a memorandum of agreement, the Commissioner considers that there are grounds for refusing to record the same he shall fix a date for hearing the party or parties desiring the memorandum to be recorded, and shall inform such party or parties and, if he thinks fit, any other party concerned, of the date so fixed and of the grounds on which he considers that the memorandum should not be recorded.

(2) If the parties to be informed are not present, a written notice shall be sent to them in Form P or Form Q, as the case may be, and the date fixed in such notice shall be not less than seven days after the date of the issue of the same

(3) If, on the date fixed under sub-rule (1) the party or parties desiring the memorandum to be recorded show adequate cause for proceeding to the record of the same, the Commissioner may, if information has already been given to all the parties concerned, record the agreement. If information has not been given to all such parties, he shall proceed in accordance with rule 49.

(4) If, on the date so fixed, the Commissioner refuses the memorandum, he shall send notice in Form O to any party who did not receive information under sub-rule (1).

51. *Procedure on refusal to record memorandum*.—(1) If in any case the Commissioner refuses to record a memorandum of agreement, he shall briefly record his reasons for such refusal.

(2) If the Commissioner refuses to record a memorandum of agreement, he shall not pass any order directing the payment of any sum or amount over and above the sum specified in the agreement, unless opportunity has been given to the party liable to pay such sum to show cause why it should not be paid.

(3) Where the agreement is for the redemption of half-monthly payments by the payment of a lump sum, and the Commissioner considers that the memorandum of agreement should not be recorded by reason of the inadequacy of the amount of such sum as fixed in the agreement, he shall record his estimate of the probable duration of the disablement of the workman.

52. Registration of memorandum accepted for record.—In recording a memorandum of agreement, the Commissioner shall cause the same to be entered in a register in Form R, and shall cause an endorsement to be entered under his signature on a copy of the memorandum to be retained by him in the following terms, namely.

“This memorandum of agreement bearing Serial No. . . . of 19 . . . in the register has been recorded this . . . day of
(Signature)
Commissioner.”

FORM A

[See rule 6 (1)]

DEPOSIT OF COMPENSATION FOR FATAL ACCIDENT

[Section 8 (1) of the Workmen's Compensation Act, 1923]

Compensation amounting to Rs . . . is hereby presented for deposit in respect of injuries resulting in the death of the workman, whose particulars are given below, which occurred on

Name

Father's name

(Husband's name in case of married woman and widow).

Caste .

Local address

Permanent address

His _____ monthly wages are estimated at Rs . . .
Her _____

He _____ over
was _____
She _____ under

the age of 15 years at the time of _____ death.
his
her

2 The said workman had, prior to the date of his/her death received the following payments, namely.—

Rs	on	Rs	on
Rs. ....	.. . on	Rs	on
Rs. ...	.. . on	Rs	on

amounting in all to Rs

3. An advance of Rs . . . has been made on account of compensation to . . . being _____ dependant.
his
her

4 I do not desire to be made a party to the proceedings for distribution of the aforesaid compensation

Dated 19

Employer.

* An employer desiring to be made a party to the proceedings should strike out the words “do not”.

FORM AA

[See rule 6 (1)]

DEPOSIT OF COMPENSATION FOR NON-FATAL ACCIDENT TO A WOMAN
OR PERSON UNDER LEGAL DISABILITY

[Section 8 (1) of the Workmen's Compensation Act, 1923]

Compensation amounting to Rs . . . is hereby presented for
deposit in respect of injuries sustained by
residing at . . . on . . . 19 . . . , resulting in
the loss of His

temporary disablement Her monthly wages are estimated at Rs . . .

He over the age of 15 years at the time of the accident.

She under

2 The said injured workman has prior to the date of the deposit received
the following half-monthly payments, namely —

Rs . . . on . . . Rs . . . on . . .

Rs . . . on . . . Rs . . . on . . .

Rs . . . on . . . Rs . . . on . . .

Dated . . . 19

Employer.

FORM B

[See rule 6]

RECEIPT FOR COMPENSATION

[Deposited under section 8 (1) of the Workmen's Compensation Act, 1923]

Book No

Receipt No.

Register No.

Depositor

Deceased or injured workman

Date of deposit 19

Sum deposited Rs

Commissioner.

FORM C

[See rule 6]

STATEMENT OF DISBURSEMENTS

[Section 8 (4) of the Workmen's Compensation Act, 1923]

Serial No

Depositor

Date

Rs

Amount deposited	
Amount deducted and repaid to the employer under the proviso to section 8 (1)	
Funeral expenses paid	
Compensation paid to the following dependants — Name Relationship	

Total	

.....

Commissioner.

Dated.....19

FORM D

[See rule 9]

DEPOSIT OF COMPENSATION FOR NON-FATAL ACCIDENTS, OTHER THAN
TO A WOMAN OR PERSON UNDER LEGAL DISABILITY

[Section 8 (2) of the Workmen's Compensation Act, 1923]

Compensation amounting to Rs.. . . . is hereby presented for deposit
in respect of permanent injuries sustained by residing at
 temporary
..... which occurred on..... 19 .

.....
Employer.

Dated,.... . 19 .

FORM E

[See rule 9]

RECEIPT FOR COMPENSATION

[Deposited under section 8 (2) of the Workmen's Compensation Act, 1923]

Book No.

Receipt No.

Register No.

Depositor... ..

In favour of

Date of deposit 19 .

Sum deposited Rs.....

.....
Commissioner.

FORM F
[See rule 20]

APPLICATION FOR COMPENSATION BY WORKMAN

To the Commissioner for Workmen's Compensation

..... applicant
residing at
versus

.....
residing at , opposite party.
It is hereby submitted that—

(1) the applicant, a workman employed by (a contractor with) the opposite party on the day of 19 received personal injury by accident arising out of and in the course of his employment

The cause of the injury was (*here insert briefly in ordinary language the cause of the injury*)

(2) the applicant sustained the following injuries, namely .—

(3) the monthly wages of the applicant amount to Rs the
over
applicant is the age of 15 years
under

(4) (a) Notice of the accident was served on the

(b) Notice was served as soon as practicable

(c) Notice of the accident was not served (in due time) by reason of

(5) the applicant is accordingly entitled to receive—

(a) half-monthly payments of Rs. from the
day of 19 to

(b) a lump sum payment of Rs .

(6) the applicant has taken the following steps to secure a settlement by agreement, namely

but it has proved impossible to settle the questions in dispute because

You are therefore requested to determine the following questions in dispute, namely :—

(a) whether the applicant is a workman within the meaning of the Act,

(b) whether the accident arose out of or in the course of the applicant's employment,

(c) whether the amount of compensation claimed is due, or any part of that amount,

(d) whether the opposite party is liable to pay such compensation as is due,

(e) etc., (as required).

Dated .. 19 Applicant.

* Strike out the clauses which are not applicable.

FORM G

[See rule 20]

APPLICATION FOR ORDER TO DEPOSIT COMPENSATION

To the Commissioner for Workmen's Compensation,

.....

residing at ..

versus

applicant,

residing at ..

opposite party

It is hereby submitted that—

(1) .. a workman employed by (a contractor with) the opposite party on the .. day of 19 .. received personal injury by accident arising out of and in the course of his employment resulting in his death on the .. day of 19 .. The cause of the injury was (*here insert briefly in ordinary language the cause of the injury*)

(2) The applicant(s) $\frac{\text{is a}}{\text{are}}$ dependant(s) of the deceased workman being his

(3) The monthly wages of the deceased amount to Rs ..
The deceased was $\frac{\text{under}}{\text{over}}$ the age of 15 years at the time of his death

(4) (a) Notice of the accident was served on the day of

(b) Notice was served as soon as practicable

(c) Notice of the accident was not served (in due time) by reason of

(5) The deceased before his death received as compensation the total sum of Rs ..

(6) The applicant(s) $\frac{\text{is}}{\text{are}}$ accordingly entitled to receive a lump sum payment of Rs ..

You are therefore requested to award to the applicant the said compensation or any other compensation to which he may be entitled

Dated 19 .. applicant.

Strike out the clauses which are not applicable.

FORM H

[See rule 20]

APPLICATION FOR COMMUTATION

(Under section 7 of the Workmen's Compensation Act, 1923).

To the Commissioner for Workmen's Compensation,

... ..
 residing at., applicant.
versus

... ..
 residing at ", opposite party
 It is hereby submitted that—

applicant
 (1) The _____ has been in receipt of half-monthly payments
 opposite party
 from ... to . . . in respect of temporary disablement by accident
 arising out of and in the course of his employment

(2) The applicant is desirous that the right to receive half-monthly
 payments should be redeemed.

(3) (a) The opposite party is unwilling to agree to the redemption of the
 right to receive half-monthly payments.

(b) The parties have been unable to agree regarding the sum for which
 the right to receive half-monthly payments should be redeemed.

You are therefore requested to pass orders—

(a) directing that the right to receive half-monthly payments should be
 redeemed

(b) fixing a sum for the redemption of the right to receive half-monthly
 payments

..... Applicant.
 Dated19 .

FORM J

[See rule 39]

NOTICE

Whereas a claim for compensation has been made by..... ..
 applicant, against..... .. and the said..... .. has claimed
 that you are liable under section 12 (2) of the Workmen's Compensation Act,
 1923, to indemnify him against any compensation which he may be liable to
 pay in respect of the aforesaid claim, you are hereby informed that you may
 appear before me on .. . and contest the claim for com-
 pensation made by the said applicant or the claim for indemnity made by
 the opposite party In default of your appearance you will be deemed to
 admit the validity of any award made against the opposite party and your
 liability to indemnify the opposite party for any compensation recovered from
 him.

Dated.....19 .

.....
 Commissioner.

FORM JJ

[See rule 39]

NOTICE

Whereas a claim for compensation has been made by . . . applicant, against . . . and the said . . . has claimed that . . . is liable under section 12 (2) of the Workmen's Compensation Act, 1923, to indemnify him against any compensation which he may be liable to pay in respect of the aforesaid claim, and whereas the said . . . on notice served has claimed that you . . . stand to him in the relation of a contractor from whom the applicant . . . could have recovered compensation you are hereby informed that you may appear before me on . . . and contest the claim for compensation made by the said applicant or the claim for indemnity made by the opposite party . . . In default of your appearance you will be deemed to admit the validity of any award made against the opposite party . . . and your liability to indemnify the opposite party . . . for any compensation recovered from him . . .

Commissioner.

Dated . . . 19 . . .

FORM K

[See rule 48]

MEMORANDUM OF AGREEMENT

It is hereby submitted that on the . . . day of . . . 19 . . . , personal injury was caused to . . . residing at . . . by accident arising out of and in the course of employment in . . . The said injury has resulted in temporary disablement to the said workman whereby it is estimated that he will be more than of his previous prevented from earning _____ wages for a period of . . . any months. The said workman has been in receipt of half-monthly payments which have continued from the . . . day of . . . 19 . . . until the . . . day of . . . 19 . . . amounting to Rs . . . in all The said workman's monthly wages are estimated at Rs. . . . The workman _____ is over the age of 15 years will reach the age of 15 years on . . .

It is further submitted that . . . the employer of the said workman has agreed to pay, and the said workman has agreed to accept the sum of Rs. . . . in full settlement of all and every claim under the Workmen's Compensation Act, 1923, in respect of all disablement of a temporary nature

arising out of the said accident, whether now or hereafter to become manifest. It is therefore requested that this memorandum be duly recorded

Dated....19 .

Signature of employer.

Witness..

Signature of workman

Witness

NOTE.—An application to register an agreement can be presented under the signature of one party, provided that the other party has agreed to the terms. But both signatures should be appended, whenever possible

Receipt (to be filled in when the money has actually been paid)

In accordance with the above agreement, I have this day received the sum of Rs.



.

. Workman

Dated19 .

The money has been paid and this receipt signed in my presence

. Witness.

NOTE—This form may be varied to suit special cases, e.g., injury by occupational disease, agreement when workman is under legal disability, etc.

FORM L

[See rule 48]

MEMORANDUM OF AGREEMENT

It is hereby submitted that on the day of 19 , personal injury was caused to.. . . . residing at by accident arising out of and in the course of his employment in.

The said injury has resulted in permanent disablement to the said workman of the following nature, namely :

The said workman's monthly wages are estimated at Rs is over the age of 15 years

The workman The said workman has, will reach the age of 15 years on. prior to the date of this agreement, received the following payments, namely :—

Rs..... on..... Rs..... on

Rs..... on..... Rs... on

Rs..... on..... Rs..... on

It is further submitted that.... . , the employer of the said workman, has agreed to pay, and the said workman has agreed to accept, the sum of Rs. in full settlement of all and every claim under the

Workmen's Compensation Act, 1923, in respect of the disablement stated above and all disablement now manifest. It is therefore requested that this memorandum be duly recorded.

Dated . . . 19 . . .

Signature of employer . . .

Witness

Signature of workman . . .

Witness

(NOTE—An application to register an agreement can be presented under the signature of one party, provided that the other party has agreed to the terms. But both signatures should be appended, whenever possible.)

Receipt (to be filled in when the money has actually been paid)

In accordance with the above agreement, I have this day received the sum of Rs



Workman

Dated . . . 19 . . .

The money has been paid and this receipt signed in my presence

Witness

(NOTE—This form may be varied to suit special cases, e.g., injury by occupational disease, agreement when workman is under legal disability, etc.)

FORM M

[See rule 48]

MEMORANDUM OF AGREEMENT

It is hereby submitted that on the . . . day of . . . 19 . . ., personal injury was caused to . . ., residing at . . . by accident arising out of and in the course of employment in . . . The said injury has resulted in temporary disablement to the said workman, wages amounting to Rs . . . per month who is at present in receipt of . . . The said . . . no wages workman's monthly wages prior to the accident are estimated at Rs. . . The workman is subject to a legal disability by reason of . . .

It is further submitted that . . . the employer of the workman has agreed to pay and on behalf of the said workman has agreed to accept half monthly payments at the rate of . . . for the period of the said temporary

FORM O

[See rules 49 and 50]

Take notice that registration of the agreement to pay compensation said to have been reached between you . . . and . . . on the . . . 19 . . . , has been refused for the following reasons namely —

.

Dated

19

Commissioner

FORM P

[See rule 50]

Whereas an agreement to pay compensation is said to have been reached between and and whereas has/have applied for registration of the agreement under section 28 of the Workmen's Compensation Act, 1923, and whereas it appears to me that the said agreement ought not to be registered for the following reasons, namely —

.
 an opportunity will be afforded to you of showing cause on 19 . . . , why the said agreement should be registered. If no adequate cause is shown on that date registration of the agreement will be refused.

Dated

19

Commissioner

FORM Q

[See rule 50]

Whereas an agreement to pay compensation is said to have been reached between and and whereas has/have applied for registration of the agreement under section 28 of the Workmen's Compensation Act, 1923, and whereas it appears to me that the said agreement ought not to be registered for the following reasons, namely —

.
 and opportunity will be afforded to the said of showing cause on 19 . . . , why the said agreement should be registered. Any representation which you have to make with regard to the said agreement should be made on that date. If adequate cause is then shown, the agreement may be registered.

Dated

19

Commissioner.

WORKMEN'S COMPENSATION (TRANSFER OF MONEY) RULES, 1935

Contents

PART I

General

PART II

Transfer of money paid to a Commissioner for the benefit of any person residing or about to reside in another country

PART III

Receipt and Administration in the Provinces of any money awarded under the law relating to Workmen's Compensation in another country

WORKMEN'S COMPENSATION (TRANSFER OF MONEY) RULES, 1935¹

In exercise of the powers conferred by section 35 of the Workmen's Compensation Act, 1923 (VIII of 1923), the ²[Central Government] is pleased to make the following rules for the transfer to any part of His Majesty's Dominions or to any other country of money paid to a Commissioner under the Act for the benefit of any person residing or about to reside in such part or country and for the receipt and administration in ³[the Provinces] of any money awarded under the law relating to workmen's compensation in any part of His Majesty's Dominions or in any other country, and applicable for the benefit of any person residing or about to reside in ³[the Provinces]

¹ The Rules were published under Department of Industries and Labour Notification No L-3033, dated 13th March 1935, as subsequently amended

² These words were substituted for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937

³ These words were substituted for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948

RULES

PART I

GENERAL.

1. These rules may be called the Workmen's Compensation (Transfer of Money) Rules, 1935

2. In these rules, unless there is anything repugnant in the subject or context,—

(a) "the Act" means the Workmen's Compensation Act, 1923,

¹(b) "authorised officer" means any officer whom the Provincial Government may designate either generally or in respect of any area or class of cases, for the purpose of performing the functions assigned by these rules to the authorised officer,

(c) "transferring authority" means any authority in any part of His Majesty's Dominions or in any other country who transfers or causes to be transferred any lump sum awarded under the law relating to workmen's compensation in such part or country and applicable for the benefit of any person residing or about to reside in ²[the Provinces].

3. When any sum is transmitted by any authority in ²[the Provinces] to any other authority in accordance with these rules, the costs of such transmission may be deducted from the sum so transmitted.

4. Money transmitted by any authority in ²[the Provinces] to any other authority in ²[the Provinces] in accordance with these rules, shall be transmitted by remittance transfer receipt or by money order.

PART II.

TRANSFER OF MONEY PAID TO A COMMISSIONER FOR THE BENEFIT OF ANY PERSON RESIDING OR ABOUT TO RESIDE IN ANOTHER COUNTRY

5. When the whole or any part of a lump sum deposited with a Commissioner for payment as compensation under the Act is pay-

¹ The function of appointing 'authorised officers' under rule 2 (b) has been entrusted to Provincial Governments with their consent under section 124 (1) of the Government of India Act, 1935.

² These words were substituted for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

able to any person or persons residing or about to reside in any other country, the Commissioner may order the transfer to that country of the sum so payable

6. When the Commissioner has ordered the transfer of any sum under rule 5, he shall cause to be prepared and shall certify under his hand a memorandum containing a brief statement of the facts of the case, of the orders passed upon it, and of the name and address of each person to whom payment is to be made

7. If the Commissioner is not himself the authorised officer he shall forward the memorandum in duplicate to the authorised officer and may either remit the sum to be transferred to the authorised officer or retain it and dispose of it in accordance with the directions of the authorised officer. If the Commissioner is himself the authorised officer, he shall proceed as provided in rule 8

8. The authorised officer, after satisfying himself that the memorandum is complete, shall forward it, and remit or cause to be remitted the sum to which it relates by such means of safe transmission as he may consider convenient to the authority appointed in this behalf for the country to which the sum is to be transferred, or if no such authority has been appointed, to such authority as the Provincial Government may by general or special order direct, and shall at the same time request the authority addressed—

- (a) to arrange for payment to be made in accordance with the directions contained in the memorandum ; and
- (b) to furnish him with a report of the action taken upon the memorandum and return any sum the payment of which is for any reason impossible.

9. (1) The authorised officer shall, if he is not the Commissioner with whom the matter originated, forward to such Commissioner a copy of any report received in response to a request made under rule 8.

(2) Any sum returned in accordance with rule 8 shall be disposed of in accordance with the Act

¹ The function of giving a direction under rule 8 has been entrusted to Provincial Governments with their consent under section 124 (1) of the Government of India Act, 1935.

PART III

RECEIPT AND ADMINISTRATION IN ¹[THE PROVINCES] OF ANY MONEY
AWARDED UNDER THE LAW RELATING TO WORKMEN'S
COMPENSATION IN ANOTHER COUNTRY

10. (1) The authorised officer shall be the proper authority to receive moneys from transferring authorities.

(2) If any Commissioner or other Government servant, not being the authorised officer, receives any sum from a transferring authority he shall either forward such sum, together with any papers relating thereto, to the authorised officer for disposal or obtain the instructions of the authorised officer as to the disposal of the sum and papers and act in accordance with his instructions.

11. The authorised officer may himself dispose of any sum or part of any sum which he receives or of which he assumes control under rule 10 or may send it or any part of it for disposal to such Commissioner or Commissioners as he considers proper.

12. All sums received from a transferring authority shall be disposed of as far as possible in accordance with the provisions of the Act and the Workmen's Compensation Rules, 1924

Provided that the directions, if any, received from the transferring authority as to the manner in which the sum should be administered shall be complied with

13. (1) The authorised officer shall forward to the transferring authority a report showing how the sum received from him has been disposed of.

(2) Any Commissioner, not being the authorised officer, who has disposed of any part of the sum, shall make a report in duplicate as to the disposal of that part to the authorised officer, and, if the sum was received by him from another such Commissioner acting in accordance with section 21 of the Act, shall forward his report through that Commissioner.

14. Any part of the sum received from the transferring authority which shall have remained undischarged after the completion of the proceedings shall be returned to the transferring authority by, or under the direction of, the authorised officer.

¹ These words were substituted for the words "British India", *Ibid*

LIST OF 'AUTHORISED OFFICERS' APPOINTED UNDER
THE WORKMEN'S COMPENSATION (TRANSFER OF
MONEY) RULES, 1935

<i>Authorized officer or officers</i>	<i>Area for which appointed</i>
The Commissioner for Workmen's Compensation, Madras	Madras
The Ceylon Emigration Commissioner, Trichinopoly	Madras in respect of disbursement of compensation transferred from Ceylon in cases of non-fatal accidents
The Commissioner for Workmen's Compensation, Bengal, Calcutta	Bengal
The Commissioner for Workmen's Compensation, Bombay	Bombay
The Director of Industries, Bihar, Ranchi	Bihar
The Director of Development, Orissa, Cuttack	Orissa
The Labour Commissioner, United Provinces, Allahabad	The United Provinces
Secretary to Government, Central Provinces, Commerce and Industry Department, Nagpur	The Central Provinces and Berar
The Director of Industries, Punjab, Lahore	The Punjab
Chief Secretary to the Government of Assam, Shillong	Assam
The Additional District and Sessions Judge and Commissioner for Workmen's Compensation Ajmer-Merwara, Ajmer	Ajmer-Merwara
The Commissioner for Workmen's Compensation, Delhi	Delhi
The Subordinate Judge of Coorg, Coorg	Coorg

WORKMEN'S COMPENSATION RETURNS¹

In exercise of the powers conferred by section 16 of the Workmen's Compensation Act, 1923 (VIII of 1923), and in supersession of the Notification of the Government of India in the Department of Industries and Labour, No. L-1189, dated the 26th June 1924, the Central Government is pleased to direct that an annual return in the form set forth in the Schedule hereto annexed shall be furnished by every person employing workmen who are —

(A) employed in a place which is a factory within the meaning of clause (j) of section 2 of the Factories Act, 1934 ;

(B) employed within the meaning of clause (d) of section 3 of the Indian Mines Act, 1923, in any mine which is subject to the operation of that Act ;

(C) employed as railway servants otherwise than in a factory or mine ;

(D) employed, otherwise than in a clerical capacity or in a factory or mine, in connection with the operation or maintenance of a tramway as defined in section 3 of the Indian Tramways Act, 1886 ;

(E) employed in any of the following categories but not falling under any of the foregoing heads (A), (B), (C) and (D) :—

- (i) otherwise than in a clerical capacity in the service of any Port Trust or Port Commission within the limits of any port subject to the Indian Ports Act, 1908 ;
- (ii) in the manufacture or handling of explosives in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed ,
- (iii) in the service of any fire brigade ;
- (iv) otherwise than in a clerical capacity in connection with operations for winning natural petroleum or natural gas ;
- (v) otherwise than in a clerical capacity on any estate which is maintained for the purpose of growing cinchona, coffee, rubber, or tea, and on which on any one day in

¹ Published under Government of India, Department of Industries and Labour Notification No. L-1189 dated the 28th March, 1935

the preceding twelve months twenty-five or more persons have been so employed ;

- (vi) otherwise than in a clerical capacity in the generating, transforming or supplying of electrical energy ,
- (vii) in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures

2. The return, which shall relate to a calendar year, shall be furnished on or before the 1st February following the year to which the return relates, and the first return shall relate to the year 1935

3. The return shall be signed (a) by the employer, or where there is more than one employer by any employer, or (b) by any person directly responsible to the employer or employers for the management of the establishment to which it relates

4. The return shall be furnished.—

(a) for workmen of all categories except (C) in paragraph 1—

(i) in the Punjab—to the Inspector of Factories ,

(ii) in other provinces—to the Commissioner for Workmen's Compensation for the area within which the said workmen are normally employed unless the Provincial Government by notification in the official Gazette specifies any other authority to whom the return shall be furnished ;

(b) for workmen falling in category (C) in paragraph 1—
to the Secretary to the Railway Board (Railway Department), Government of India

5. When the Provincial Government or the Railway Board so direct the return shall be furnished in duplicate

6. Notwithstanding anything hereinbefore contained, the aforesaid return is not required to be submitted by any employer in respect of compensation paid on account of injuries suffered by his workmen during any period for which his liability under the Act has been insured with a Mutual Indemnity or other Insurance Company or during which he is a member of an association of employers which deals on behalf of its members with claims for compensation under the Act, if such company or association has with the consent of the Provincial Government undertaken to submit returns as nearly as may

be in the form set forth in the Schedule hereto annexed in respect of the employers insured with such company or belonging to such association. Such undertaking shall provide that the said returns shall be submitted not later than the 1st February, or at the discretion of and subject to such conditions as the Provincial Government may impose, the 1st March following the year to which they relate.

SCHEDULE

WORKMEN'S COMPENSATION

<i>Returns relating to period from</i>		<i>to 31st December, 19 .</i>
<i>Province</i>	}	<i>(To be omitted in case of railways).</i>
<i>District</i>		
<i>Town or village</i>		
<i>Post Office</i>		
<i>Name of establishment</i> ¹		
<i>Nature of work</i> ²		
<i>Average number</i> ³ <i>employed per day</i>		{ <i>Adults</i> <i>Minors</i>

¹ In cases where more establishments than one are owned by the same employer, a separate return should be furnished for each establishment. When in any establishment the workmen employed fall in two or more of the district categories to which the return relates [*e.g.*, in the case of a tea estate categories A and E (v)] a separate sheet should be used for the statistics of each category.

² Enter the class of establishment according to the process or product, *e.g.*, cotton weaving and spinning factory, coal mine.

³ Include all employees whether permanent or temporary who would, in the case of accidents be eligible for compensation under the Act, and for whom a return is required to be furnished. Numbers employed should be shown even if there are no payments of compensation to report.

SCHEDULE—*Contd*

	Accidents						Occupational diseases ¹					
	No. of cases of injuries ¹ in respect of which final compensation has been paid during the year			Amount of Compensation ² paid			No. of cases of diseases ¹ in respect of which final compensation has been paid during the year			Amount of Compensation ² paid		
	Death	dis- Permanent ablement	dis- Temporary ablement	dis- Permanent ablement	dis- Temporary ablement	Nature of disease ³	dis- Permanent ablement	dis- Temporary ablement	dis- Permanent ablement	dis- Temporary ablement		
Adults				Rs	Rs				Rs	Rs	Rs	
Minors												

Dated

19

(Signed)

(Designation)

¹ Include only those cases in which the final payment of compensation was made during the year. A deposit with the Commissioner should be treated as a payment by the employer.

² Include all compensation paid in respect of the cases mentioned in footnote 1, whether such compensation was paid during the year or previous to its commencement. Exclude all payments in cases in which the final payment had not been made by the end of the year to which the return relates.

³ Only such disablements as last for more than seven days should be shown [section 4 (1) D of the Act].

⁴ Where the benefit actually allowed (e.g., hospital leave on full pay) is in excess of the compensation admissible under the Act, only the amount of the compensation so admissible should be entered in the return.

⁵ Viz., anthrax, lead poisoning, phosphorus poisoning, mercury poisoning, benzene poisoning, chrome ulceration and compressed air illness only.

⁶ Enter separately each of the diseases specified in footnote 5 which resulted in cases in respect of which compensation was paid.

EMPLOYERS' LIABILITY ACT, 1938 (XXIV OF 1938)

Arrangement of Sections

1. Short title and extent
2. Definitions.
3. Defence of common employment barred in certain cases.
4. Risk not to be deemed to have been assumed without full knowledge.
5. Saving

EMPLOYERS' LIABILITY ACT, 1938 (XXIV OF 1938)

An Act to declare that certain defences shall not be raised in suits for damages in ¹[the Provinces] in respect of injuries sustained by workmen.

Whereas it is expedient to declare that certain defences shall not be raised in suits for damages in ¹[the Provinces] in respect of injuries sustained by workmen ; It is hereby enacted as follows :—

1. Short title and extent.—(1) This Act may be called the Employers' Liability Act, 1938.

(2) It extends to ²[all the Provinces of India].

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) "workman" means any person who has entered into, or works under a contract of, service or apprenticeship with an employer whether by way of manual labour, clerical work or otherwise, and whether the contract is expressed or implied, oral or in writing ; and

(b) "employer" includes any body of persons whether incorporated or not, any managing agent of an employer, and the legal representatives of a deceased employer, and, where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him.

¹ These words were substituted for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948

² These words were substituted for the words "the whole of British India", *ibid.*

3. Defence of common employment barred in certain cases.—

Where personal injury is caused to a workman—

- (a) by reason of the omission of the employer to maintain in good and safe condition any way, works, machinery or plant connected with or used in his trade or business, or by reason of any like omission on the part of any person in the service of the employer who has been entrusted by the employer with the duty of seeing that such way, works, machinery or plant are in good and safe condition, or
- (b) by reason of the negligence of any person in the service of the employer who has any superintendence entrusted to him, whilst in the exercise of such superintendence; or
- (c) by reason of the negligence of any person in the service of the employer to whose orders or directions the workman at the time of the injury was bound to conform and did conform, where the injury resulted from his having so conformed, or
- (d) by reason of any act or omission of any person in the service of the employer done or made in obedience to any rule or bye-law of the employer (not being a rule or bye-law which is required by or under any law for the time being in force to be approved by any authority and which has been so approved) or in obedience to particular instructions given by any person to whom the employer has delegated authority in that behalf or in the normal performance of his duties;

a suit for damages in respect of the injury instituted by the workman or by any person entitled in case of his death shall not fail by reason only of the fact that the workman was at the time of the injury a workman of, or in the service of, or engaged in the work of, the employer.

4. Risk not to be deemed to have been assumed without full knowledge.—In any such suit for damages, the workman shall not be deemed to have undertaken any risk attaching to the employment unless the employer proves that the risk was fully explained to and understood by the workman and that the workman voluntarily undertook the same.

5. Saving.—Nothing in this Act shall affect the validity of any decree or order of a Civil Court passed before the commencement of this Act in any such suit for damages

SOCIAL INSURANCE LEGISLATION

Social Security.¹

Social Security is the security that the Society furnishes, through appropriate organisations, against certain risks to which its members are exposed ; these risks being sickness, maternity, invalidity, accident, industrial disease, unemployment, old age and death. It is the security against the above risks which the individual members of the society can not effectively provide by his own ability or in combination with others. Social Security is considered in modern states as indispensable to strike at the root of poverty, unemployment and disease. For the vast majority of people, it is taken to mean freedom from want and this can be assured by a system of social insurance or social assistance schemes covering the above risks. The system of compulsory social insurance was first initiated in Germany by Chancellor Bismark ; compulsory scheme of sickness, industrial injury and burial insurance were introduced in Germany from 1883 to 1885 and the insurance for old age and invalidity pensions was introduced in 1889. The social insurance was fully developed in England in later years. The National Insurance Act of 1911 inaugurated a scheme of compulsory insurance of manual workers between the age of 14 and 65 in England against ill-health and unemployment. Compulsory sickness insurance was introduced in Japan in 1922. In U.S.A. the Social Security Act was passed in 1933.

¹ For detailed study read the following books :—(1) Sir William Beveridge—Report on Social Insurance and Allied Services, 1942 and Pillars of Security, (2) Abraham Epstein—Insurance—A Challenge to America, (3) William A. Robson (Ed.)—Social Security, (4) Gertrude Williams—The Price of Social Security, (5) I. L. O.—(i) I. L. O. and Social Insurance, 1936 (ii) Approaches to Social Security, 1942, (iii) Social Security—Principles and Problems arising out of the War, 1944, (iv) Problems of Social Security, 1947, (6) Prof B. P. Adarkar—Report on Health Insurance for Industrial Workers, (7) A. N. Agarwala—Social Insurance Planning in India and Health Insurance in India; (8) N. G. Abhyankar—Industrial Labour and Social Security, (9) N. A. Sarma—Social Security and (10) Monohar R. Idgunji—Social Insurance and India

Social Security Plans.

The United Nations in the famous Atlantic Charter expressed their desire to bring about the fullest collaboration between all nations in the economic field with the object of securing for all improved labour standards, economic advancement and social security. The International Labour Organisation at its 26th Session held in Philadelphia, April-May 1944, drew up an all-inclusive Social Security programme embodied in the Declaration, Recommendations and Resolutions on income security, medical care and employment organisation for guiding the Member States in developing their Social Security Schemes. The Conference recommended that income security should be organised as far as possible on the basis of compulsory social insurance which should cover the following contingencies :—(1) sickness, (2) maternity, (3) invalidity, (4) old age, (5) death of breadwinner, (6) unemployment, (7) emergency expenses and (8) employment injuries

Some modern States drew up comprehensive social security plans, viz. Beveridge Plan in England, Wagner-Murray Plan in U.S.A and Marsh Plan in Canada. These plans include social insurance against sickness, maternity, accidents, unemployment, old age, invalidity pensions, widow pensions, orphan's pensions and guarantee to every member of the society the minimum requisite of living. The Plans aim at establishment of common fund out of contributions from the state, employers and employees.

Social Insurance in India.

Sir William Beveridge refers to five giants, viz. Want, Disease, Ignorance, Squalor and Unemployment, which should be attacked and killed, on the road to reconstruction. India is afflicted by all these giants more than any other country. Hence the need of social security measures is all the more important in India. Unfortunately the Government did nothing to provide social security measures for the workers. The question of sickness insurance was examined by the Government of India for the first time in 1928 when the question of ratification of Draft Conventions (24 & 25) and Recommendations adopted at the Tenth International Labour Conference in 1927 concerning sickness came up for consideration. The Government came to the conclusion that introduction of the scheme was not practicable in the existing conditions. The question was again brought before

the Government when the Seventeenth International Labour Conference adopted Draft Conventions (35 to 40) and Recommendations in 1933 concerning invalidity, old age and widows' and orphans' insurances ; but the Government decided not to introduce the schemes on the ground of administrative and financial difficulties

Social insurance is still in the infant stage of development in India. The only forms of social insurance undertaken in India were Workmen's Compensation legislation by the Central Government in 1923 ; Maternity Benefit legislations by different Provincial and State Governments from 1925 to 1947, and sickness benefit schemes by some industrial concerns¹ like Bata Shoe Company of Calcutta, Indian Copper Corporation of Ghatsila and East India Tramways Company of Karachi, all limited in scope and based on individualistic self-help. The State has so long played the part of a mere legislator and has not so far interested itself in introduction of security measures or financial participation in them. Health insurance which is the most important form of social insurance has so long been neglected in India

Whitley Commission.

In 1931, the Royal Commission on Labour suggested an early consideration of the matter and proposed a tentative scheme to be put into operation for the time being, until a complete scheme based on statistical data could be devised. Despite the above recommendation, no concrete proposal was evolved and adopted in India.

Tripartite Indian Labour Conferences.

During the recent years the need for a system of sickness insurance has been more and more recognised in India. The matter was raised before the First Conference of Labour Ministers held on 22nd and 23rd January, 1940 when the principle of a central sickness insurance legislation was considered and it was decided to obtain the views of Provincial Governments and Associations of employers and workers about compulsory contributions to the sickness insurance fund. The response from employers and workers was favourable. The Second Conference of Labour Ministers in 1941 suggested that preliminary actuarial examination should be undertaken in certain large industries before introduction of the

¹ Prof Adarkar's Report on Health Insurance for Industrial Workers, page 16.

scheme and was also of opinion that no contribution should be paid by the Government. A tentative scheme of sickness insurance prepared by the Labour Department of the Government of India was submitted before the Third Conference of Labour Ministers held on 30th and 31st January, 1942 for a basis of discussion and it was agreed that a draft sickness insurance scheme should be prepared for application in the first instance to the workers in cotton, jute and heavy engineering industries

Provincial Labour Enquiry Committees.

The Cawnpur Labour Enquiry Committee, 1938 and the Bihar Labour Enquiry Committee, 1940, recommended that the Provincial Governments should examine the possibility of sickness insurance scheme on the lines of the British model and pending the introduction thereof annual sickness leave should be granted to permanent employees of prescribed minimum service, in organised industries.

The Bombay Textile Labour Enquiry Committee, 1940, recommended the adoption of compulsory sickness insurance scheme for the permanent workers of the cotton textile industry, with monthly contributions by employers, workers and Government at the rate of As 10, As 5 and anna 1 per worker. The Committee further recommended that the administration of the scheme should be entrusted to a Central Board of Management and the administrative expenses should be borne by the Provincial Government.

Prof. Adarkar's Report.

After much deliberations, the Government of India appointed Prof. B. P. Adarkar of Allahabad University, as a Special Officer, in March 1943, to prepare a Report on the health insurance of the industrial workers in India and he submitted his Report in August, 1944. This Report contains a comprehensive social insurance scheme and is first of its kind in India in dealing with compulsory and contributory social insurance measures

Stack and Rao's Integrated Scheme.

Prof. Adarkar's Scheme was later examined by Messrs. Maurice Stack and Raghunath Rao who were deputed by the International Labour Office, at the invitation of the Government of India. They

¹ Report on Health Insurance for Industrial Workers by Prof. B. P. Adarkar (Simla, 1944)

suggested the extension of the scope to all perennial factories and to all workers, manual or non-manual. They fully supported Prof. Adarkar's suggestion about a unified scheme of workmen's compensation, maternity benefit and sickness insurance given in the Appendix to his Report and suggested that in the interest of economy and administrative efficiency and in accordance with the modern practice, maternity benefit and workman's compensation should be grouped together and integrated with sickness insurance through a single comprehensive scheme. They suggested the extension of medical benefits to the wife and children of the insured worker if living with him; grant of cash benefit sufficient for subsistence in all cases and proportioned to the normal standard of living of workers of the lower and middle grades; administration of medical benefits through Provincial health service and also some contributions from the Government.

Workmen's State Insurance Bill, 1946.

The Adarkar Scheme and the Stack-Rao note were discussed at the 6th Labour Conference held on 27th and 28th October, 1944 and also at the 6th meeting of the Standing Labour Committee held on 17th March, 1945 and there was a general agreement that the Central Government should go ahead with the preparation of a scheme of health insurance applicable to all perennial factories and covering employment injuries and maternity benefit, if possible and that the scheme should be circulated to Provinces, employers' and workers' associations before a Bill was prepared.

The Workmen's State Insurance Bill providing compulsory sickness insurance, maternity benefit and employment injury for all workers in perennial factories was introduced in the Indian Legislature on the 6th November, 1946.

Employee's State Insurance Act, 1948 (XXXIV of 1948).

The Workmen's State Insurance Bill, 1946 was referred to the Select Committee on the 22nd November, 1947. In moving the motion that the Bill be referred to the Select Committee, the Hon'ble Labour Minister admitted that the scope of the Bill is limited, "but while considering social security measures and specially measures of the present nature, we have to keep in view various limiting factors which we have to face, not only in the case of working class, but

for the country as a whole”¹ The Select Committee submitted the Report on the 11th February, 1948 making substantial improvement over the original Bill. The original Bill was meant for factory workers and not for the clerical staff of the factory but the Select Committee modified the provisions making it applicable to all employees in factories.

In piloting the Bill, the Hon’ble Labour Minister said that the Bill opened a new chapter in the history of labour legislation in this country and was the beginning of social security measures. Its scope was limited but the benefit might be expanded and extended to any extent to cover the various categories of working classes in this country and this would be done as soon as conditions permit.² The Act was passed on the 2nd April, 1948 and received the assent of the Governor General on the 19th April, 1948

Scope.

The Act applies initially to all perennial factories including Government factories and covers persons employed for wages in connection with the work in a factory excepting any member of the armed force or person earning more than Rs 400/- per month. Approximately 2½ million persons will be covered by its provisions. The Provincial Government may in consultation with the Corporation and with the approval of the Central Government, extend the application of the Act to any industrial, commercial or agricultural establishment after giving six months’ notice.

Enforcement.

All the provisions of the Act have not yet been brought into force. Chapters I, II, III and VIII have been brought into force from 1st September, 1948.

Provisions of Benefits under the Act.

The Act provides for the following benefits to the insured persons or their dependants:—(1) sickness benefit, (2) maternity benefit, (3) disablement benefit, (4) dependants’ benefit and (5) medical benefit. The right to receive benefit is not transferable or assignable.

¹ Constituent Assembly of India (Legislative) Debates, dated 22nd November, 1947, Vol I—No 6, p 518.

² Constituent Assembly of India (Legislative) Debates, 1st and 2nd April, 1948, Vol IV—Nos 7 and 8

and the cash benefit is not attachable. The person entitled to any benefit under this Act is not entitled to receive similar benefit under any other Act. A person is not also entitled to receive more than any of the following benefits at the same time, *viz*, sickness, maternity and disablement.

(1) Sickness benefit—A worker is entitled to sickness benefit in the form of periodical payment if certified by a duly appointed medical practitioner. To enable a worker to qualify for sickness benefit contributions should be paid for a period of six months and in return for such contributions the worker would be entitled to benefits to a subsequent period of six months. Contributions should be payable for two-thirds of the period, but the minimum number of contribution has been fixed at twelve. The maximum period for which sickness benefit is payable will be 56 days in any continuous period of 365 days, at a rate equal to one-half of the average daily wage. Sickness benefit is not payable for an initial waiting period of 2 days except where the insured worker falls sick again within 15 days.

(2) In the case of maternity benefit, instead of 26 contributions in a period of 52 weeks, benefit would be payable if twelve contributions are paid and at least one contribution has been paid between 35 and 40 weeks before the week in which confinement takes place or notice of pregnancy is given. The insured woman will receive maternity benefit at the rate of 12 annas per day for six weeks before and six weeks after child-birth, in conformity with the I. L. O. Child-birth Convention (No 3 of 1919).

(3) Disablement benefit is payable in respect of temporary and permanent disablement, partial or total, as a result of an employment injury, at a rate equivalent to half the assumed average daily wage in respect of each of the weeks for which contributions are paid in respect of the employee during the period of 52 weeks immediately preceding the week in which the injury occurs divided by the number of weeks for which contributions are so paid.

(4) Dependants' benefit is payable to the dependants of an insured person dying as a result of employment injury. Dependants' benefits are payable to the insured person's wife and children at the following rates—at $\frac{3}{5}$ of the full rate to the widow during life or remarriage, $\frac{2}{5}$ of the full rate to each legitimate or adopted son up to age 15 and $\frac{2}{5}$ of the full rate to each legitimate unmarried daughter up to age 15 or marriage which is earlier.

Disablement or Dependants' benefits are payable at weekly rates in place of the existing lump compensation under the Workmen's Compensation Act. Weekly payment is a convenient method of safeguarding against squandering away money and spending according to one's future requirement.

(5) The insured person will receive medical benefit of such kind and scale as may be provided by the Provincial Government or the Corporation, either in the form of out-patient treatment or attendance in hospital, dispensary or clinic. The Provincial Government may extend the benefit to the family of the insured person. Medical benefit consists of free medical treatment, in case of sickness, employment injury and maternity.

Administration of the Insurance Scheme.¹

Employees' State Insurance Corporation

The Employees' State Insurance Scheme will be administered by a Corporation called Employees' State Insurance Corporation set up by the Central Government with the Minister for Labour and the Minister for Health in the Central Government as ex-officio Chairman and Vice-Chairman; five persons nominated by the Central Government including three of its officers, one person each representing each of the Provinces nominated by the Provincial Government, one person for the Chief Commissioner's Province nominated by the Central Government, five persons representing employers' and five persons representing employees' organisations; two persons representing medical profession and two persons elected by the Central Legislature. The terms of office of the members of the Corporation other than ex-officio members and members nominated by the Central or Provincial Government shall be four years commencing from the date of nomination or election. Member nominated by the Central or Provincial Government shall hold office during the pleasure of the respective Government. The Corporation may appoint Regional Boards, Local Committees and Regional and Local Medical Benefit Councils.

Standing Committee

The Standing Committee of the Corporation shall be constituted from amongst its members, consisting of 13 members—the

¹ The Employees' State Insurance Corporation, Standing Committee and Medical Benefit Council were already constituted and a Director General of the Corporation was appointed by the Central Government.

Chairman and the three official members nominated by the Central Government and nine members elected by the Corporation—(1) three from Provincial Governments' representatives. (2) two from employers' representatives, (3) two from employees' representatives, (4) one from medical representatives and (5) one from Central Legislature's elected representatives. The term of office of the members excepting Government nominees will be two years from the date the election is notified. The Standing Committee shall administer the affairs of the Corporation and shall exercise all its powers and functions

Medical Benefit Council.

The Medical Benefit Council will be constituted by the Central Government consisting of the Director General, Health Services as ex-officio Chairman, Medical Commissioner of the Corporation as ex-officio member, Deputy Director General, Health Services nominated by the Central Government; one member each nominated by the Provincial Government concerned, three members representing employers, three members representing employees, three members including one woman from medical profession. The term of office will be four years excepting Government representatives. The Council will advise the Corporation, the Standing Committee and the Medical Commissioner regarding the administration of medical benefit, certification for the purpose of granting benefit and other connected matters. The Council will investigate in connection with complaints against medical practitioners regarding the medical treatment.

Fees and Allowances.

Members of the Corporation, Standing Committee and Medical Benefit Council will receive such fees and allowances as may be prescribed.

Principal Officers and Staff.

The Central Government in consultation with the Corporation shall appoint the following principal officers—a Director General of Employees' State Insurance who shall be the Chief Executive Officer of the Corporation, an Insurance Commissioner, a Medical Commissioner, a Chief Accounts Officer and an Actuary. The principal officers will be wholetime officers of the Corporation and

are not allowed to do any work unconnected with their office without previous sanction.

The Corporation can appoint other staff for efficient transaction of the business, but Government's sanction is necessary for creation of any post with a salary of Rs 500/- or over and appointment to such posts shall be made in consultation with the Federal Public Service Commission

Employees' State Insurance Fund.

The scheme is financed by the Employees' State Insurance Fund, which is held and administered by the Corporation. The Fund will consist of contributions received from the employers and employees, donations and gifts from Central, Provincial or State Government, Local authority, etc

The fund shall be expended, amongst others, for (1) payment of benefits and provision for medical treatment to insured persons and their families, if extended; (2) payment of fees and allowances to the members of the Corporation, Standing Committee, Medical Benefit Council, Regional Boards, Local Committees, Regional and Local Medical Benefit Councils, (3) payment of salaries and allowances of officers and staff of the Corporation, (4) establishment and maintenance of hospitals, dispensaries and other institutions; (5) payment of contributions to others for cost of medical treatment and attendance to the insured and (6) defraying expenditure for health and welfare of insured persons and for their rehabilitation and re-employment if disabled or injured.

During the first five years, the Central Government will make an annual grant to the Fund of a sum equivalent to two-thirds of the administrative expenses of the Corporation, not including the costs of benefits

Contributions.

The weekly contribution payable in respect of an employee, shall comprise both employer's and employee's contribution. For the purpose of fixing the weekly amount payable, employees shall be divided into eight groups on the basis of their average daily wages and the employers have to pay double of the contribution payable by the employees and the total contributions (both employers and employees) have to be paid to the Corporation.

The principal employer shall pay in respect of every employee, whether employed by him or through an immediate employer, both

the employer's contribution and the employee's contribution and he is entitled to recover the employee's contribution by deducting it from his wages due for the period to which contribution relates. With regard to the contribution paid on behalf of the immediate employer, both employer's and employee's contribution can be deducted from an amount payable to him by the principal employer under any contract and the immediate employer can recover the employee's contribution from the employee employed by him by deducting it from his wages. Employees whose average daily wages are below one rupee are exempted from payment.

The contribution should be payable not only in respect of the weeks during which the employee rendered service and received wages, but also in respect of weeks during which he was on authorised leave or was unable to work because of lock-out or legal strike with further qualification that in respect of legal strike, contribution would be payable only if wages were paid either in part or full.

Liability of the Employers.

Where an employment injury is sustained by an insured person on account of negligence of the employer in the observance of safety rules, the Corporation is entitled to recover from the employer, the actuarial present value of periodical payments made to the insured person. Where the Corporation considers that the incidence of sickness amongst insured persons is excessive on account of insanitary working conditions in the factory or establishments or insanitary conditions of the tenements or lodgings, the Corporation will forward a claim to the owner or occupier of the factory or establishment for payment of extra expenditure incurred as sickness benefit. If the claim is not settled by agreement, the same will be referred to the Provincial Government who will appoint competent person or persons to enquire into the matter. If the enquiring officer is satisfied that the excess in incidence of sickness is due to default or neglect of the owner of the factory or tenements, he will determine the amount of extra expenditure incurred as sickness benefit and the person or persons by whom the whole or any part of such amount shall be paid to the Corporation.

Employers shall not reduce the wages of any employee or discontinue or reduce the benefit payable to him. Employers shall not also dismiss, discharge or otherwise punish any employee while

receiving sickness or maternity benefit or discharge, reduce or otherwise punish any employee while receiving disablement benefit or is under medical treatment for sickness or is absent on account of pregnancy or confinement duly certified. Notice of dismissal, discharge or reduction during the above period shall not be valid or operative.

Employees' Insurance Court.

The Provincial Government will constitute the Court consisting of judicial officers or legal practitioners of two years' standing. The Court will decide all questions and disputes arising out of the rate of contribution and the liability of the employer regarding contribution and all claims regarding contribution and benefit. Civil Court has no jurisdiction over the above questions.

The Employees' Insurance Court shall have the power of Civil Court and its order is enforceable like a civil court decree. The proceeding before the Court shall be instituted by application in such form and with such fees as may be prescribed by the Provincial Government in consultation with the Corporation. The appearance will be made by a legal practitioner or an officer of a registered Union duly authorised by writing or with the permission of Court by any other person so authorised. No appeal shall lie from an order of the Court, but if it involves a substantial question of law, appeal shall lie to the High Court. The Court may also submit any question of law for the decision of the High Court and will act according to the decision received.

Penalties and Prosecutions.

Infringement of the provisions of the Act is punishable with imprisonment which may extend to 3 months or with fine which may extend to Rs. 500/- or with both. Prosecution has to be instituted before a Presidency Magistrate or a Magistrate of the first class, by or with the previous sanction of the Insurance Commissioner within six months of the commission of the offence.

Steps taken for implementation of the Scheme.

The Government of India by a Notification dated the 31st August 1948, appointed a Director-General of Employees' State Insurance and set up the Employees' State Insurance Corporation on the 6th September 1948. The inaugural ceremony of the Corporation was

performed by His Excellency the Governor-General of India on the 6th October, 1948. The first business meeting of the Corporation was held on the same day and Corporation elected a Standing Committee consisting of 13 members. The Medical Benefit Council was constituted on the 28th December, 1948.

Due to administrative difficulties in launching the scheme throughout the country, the Government of India have decided that the Corporation should first introduce a "pilot" scheme covering the Chief Commissioners' Provinces of Delhi and Ajmer-Merwara. Necessary steps were taken for survey of the areas and recruitment of necessary staff for its introduction. The "pilot" health insurance scheme would be launched in New Delhi by January, 1950¹.

Draft Rules under the Act have been published on the 4th November 1948 and have not yet been finalised.

EMPLOYEES' STATE INSURANCE ACT, 1948 (XXXIV OF 1948)

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¹ Speech of Dr. C. L. Katial, Director General of the Corporation in Bombay, *Sundav Statesman*, Calcutta, dated the 4th September, 1949

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EMPLOYEES' STATE INSURANCE ACT, 1948 (XXXIV OF 1948).¹

An Act to provide for certain benefits to employees in case of sickness, maternity and 'employment injury' and to make provision for certain other matters in relation thereto.

Whereas it is expedient to provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto ;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. Short title, extent, commencement and application.

- (1) This Act may be called the Employees' State Insurance Act, 1948.
- (2) It extends to all the Provinces of India.
- (3) It shall come into force on such date² or dates as the Central Government may, by notification in the official Gazette, appoint, and different dates may be appointed for different provisions of this Act and for different Provinces.
- (4) It shall apply, in the first instance, to all factories (including factories belonging to the Crown) other than seasonal factories.

¹ For the Statement of Objects and Reasons, see Gazette of India, Part V, dated 9th November, 1946, p. 319 and for the Report of the Select Committee, see *ibid*, dated 21st February, 1948, p. 124

² Chapters I, II, III and VIII have come into force from 1st September, 1948, *vide* Ministry of Labour Notification No SS 21 (2) (1), dated the 31st August, 1948; Gazette of India Extraordinary, dated the 1st September, 1948.

(5) The appropriate Government may, in consultation with the Corporation and with the approval of the Central Government, after giving six months' notice of its intention of so doing by notification in the official Gazette, extend the provisions of this Act or any of them, to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(1) "appropriate Government" means in respect of establishments under the control of the Central Government or a federal railway or a major port, or a mine or oilfield, the Central Government, and in all other cases, the Provincial Government,

(2) "benefit period" means such period of twenty-six consecutive weeks or six consecutive months corresponding to the contribution period, or in the case of the first benefit period, such longer or shorter period, as may be specified in regulations,

(3) "confinement" means labour resulting in the issue of a living child, or labour after twenty-six weeks of pregnancy resulting in the issue of a child whether alive or dead;

(4) "contribution" means the sum of money payable to the Corporation by the principal employer in respect of an employee and includes any amount payable by or on behalf of the employee in accordance with the provisions of this Act;

(5) "contribution period" means such period of twenty-six consecutive weeks or six consecutive months, or in the case of the first contribution period, such longer or shorter period, as may be specified in regulations;

(6) "Corporation" means the Employees' State Insurance Corporation set up under this Act;

(7) "duly appointed" means appointed in accordance with the provisions of this Act or with the rules or regulations made thereunder;

(8) "employment injury" means a personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment in a factory or establishment to which this Act applies, which injury or occupational disease would entitle such employee to compensation under the Workmen's Compensation Act, 1923 (VIII of 1923), if he were a workman within the meaning of the said Act;

(9) "employee" means any person employed for wages in or in connection with the work of a factory or establishment to which this Act applies and—

- (i) who is directly employed by the principal employer on any work of, or incidental to, or preliminary to or connected with the work of, the factory or establishment, whether such work is done by the employee in the factory or establishment or elsewhere ;
- (ii) who is employed by or through an immediate employer on the premises of the factory or establishment or under the supervision of the principal employer or his agent on work which is ordinarily part of the work of the factory or establishment or which is preliminary to the work carried on in or incidental to the purpose of the factory or establishment ,
- (iii) whose services are temporarily lent or let on hire to the principal employer by the person with whom the person whose services are so lent or let on hire has entered into a contract of service ;

but does not include—

(a) any member of His Majesty's naval, military or air forces
or

(b) any person employed on a remuneration which in the aggregate exceeds four hundred rupees a month ;

(10) "exempted employee" means an employee who is not liable under this Act to pay the employee's contribution ;

(11) "family" means the spouse and minor legitimate and adopted children dependent upon the insured person and where the insured is a male, his dependant parents ;

(12) "factory" means any premises including the precincts thereof whereon twenty or more persons are working or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on but does not include a mine, subject to the operation of the Indian Mines Act, 1923 (IV of 1923) ;

"seasonal factory" means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including gur)

or tea or any manufacturing process which is incidental to or connected with any of the aforesaid processes ;

The expressions "manufacturing process" and "power" shall have the meanings respectively assigned to them in the Factories Act, 1934 (XXV of 1934) ;

(13) "immediate employer", in relation to employees employed by or through him, means a person who has undertaken the execution, on the premises of a factory or an establishment to which this Act applies or under the supervision of the principal employer or his agent, of the whole or any part of any work which is ordinarily part of the work of the factory or establishment of the principal employer or is preliminary to the work carried on in, or incidental to the purpose of, any such factory or establishment, and includes a person by whom the services of an employee who has entered into a contract of service with him are temporarily lent or let on hire to the principal employer ;

(14) "insured person" means a person who is or was an employee in respect of whom contributions are or were payable under this Act and who is, by reason thereof, entitled to any of the benefits provided by this Act ;

(15) "occupier" of the factory shall have the meaning assigned to it in the Factories Act, 1934 (XXV of 1934) ;

(16) "prescribed" means prescribed by rules made under this Act ;

(17) "principal employer" means—

(i) in a factory, the owner or occupier of the factory and includes the managing agent of such owner or occupier, the legal representative of a deceased owner or occupier, and where a person has been named as the manager of the factory under clause (e) of sub-section (1) of section 9 of the Factories Act, 1934 (XXV of 1934), the person so named ;

(ii) in any establishment under the control of any department of any Government in India, the authority appointed by such Government in this behalf or where no authority is so appointed, the head of the Department ;

(iii) in any other establishment, any person responsible for the supervision and control of the establishment ;

- (18) "regulation" means a regulation made by the Corporation ;
- (19) "Schedule" means a Schedule to this Act ;
- (20) "sickness" means a condition which requires medical treatment and attendance and necessitates abstention from work on medical grounds ;
- (21) "temporary disablement" means a condition resulting from an employment injury which requires medical treatment and renders an employee, as a result of such injury, temporarily incapable of work ;
- (22) "wages" means all remuneration paid or payable in cash to an employee, if the terms of the contract of employment, express or implied, were fulfilled and includes other additional remuneration, if any, paid at regular intervals after the last day of the wage period, but does not include—
- (a) any contribution paid by the employer to any pension fund or provident fund, or under this Act ;
 - (b) any travelling allowance or the value of any travelling concession ;
 - (c) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment , or
 - (d) any gratuity payable on discharge ;
- (23) "week" means a period of seven days commencing at midnight on Saturday night ;
- (24) the expressions "dependant", "managing agent", "occupational disease", "partial disablement" where the disablement is of a permanent nature and "total disablement" shall have respectively the meanings assigned to them in the Workmen's Compensation Act, 1923 (VIII of 1923).

CHAPTER II

CORPORATION, STANDING COMMITTEE AND MEDICAL BENEFIT COUNCIL.

3. Establishment of Employees' State Insurance Corporation.—(1) With effect from such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, there shall be established for the administration of the scheme of Employees' State Insurance in accordance with the provisions of this Act a Corporation to be known as the Employees' State Insurance Corporation.

(2) The Corporation shall be a body corporate by the name of Employees' State Insurance Corporation having perpetual succession and a common seal and shall by the said name sue and be sued.

4. Constitution of Corporation.—The Corporation¹ shall consist of the following members namely :—

- (a) the Minister for Labour in the Central Government, *ex-officio*, as Chairman ;
- (b) the Minister for Health in the Central Government, *ex-officio*, as Vice-Chairman ;
- (c) not more than five persons to be nominated by the Central Government of whom at least three shall be officials of the Central Government,
- (d) one person each representing each of the Governor's Provinces to be nominated by the Provincial Government concerned ;
- (e) one person to be nominated by the Central Government to represent the Chief Commissioner's Provinces ,
- (f) five persons representing employers to be nominated by the Central Government in consultation with such organisations of employers as may be recognised for the purpose by the Central Government ,
- (g) five persons representing employees to be nominated by the Central Government in consultation with such organisations of employees as may be recognised for the purpose by the Central Government ;
- (h) two persons representing the medical profession to be nominated by the Central Government in consultation with such organisations of medical practitioners as may be recognised for the purpose by the Central Government ; and
- (i) two persons to be elected by the Central Legislature.

5. Term of office of members of the Corporation.

(1) Save as otherwise expressly provided in this Act, the term of office of members of the Corporation, other than the *ex-officio* members and members referred to in clauses (c), (d) and (e) of section 4, shall be four years commencing from the date on which their nomination or election is notified .

¹ The Employees' State Insurance Corporation was constituted under Ministry of Labour Notification No SS 21 (2) (2), dated the 6th September, 1948.

Provided that a member of the Corporation shall, notwithstanding the expiry of the said period of four years, continue to hold office until the nomination or election of his successor is notified.

(2) The members of the Corporation referred to in clauses (c), (d) and (e) of section 4 shall hold office during the pleasure of the Government nominating them.

6. Eligibility for re-nomination or re-election—An outgoing member of the Corporation, Standing Committee, or the Medical Benefit Council shall be eligible for re-nomination or re-election as the case may be.

7. Authentication of orders, decisions, etc.—All orders and decisions of the Corporation shall be authenticated by the signature of the Chairman or some other member authorised by the Corporation in this behalf and all other instruments issued by the Corporation shall be authenticated by the signature of such member or officer of the Corporation as may be authorised by it.

8. Constitution of Standing Committee.—A Standing Committee¹ of the Corporation shall be constituted from among its members, consisting of—

- (a) a Chairman, nominated by the Central Government ;
- (b) three members of the Corporation, being officials of the Central Government, nominated by that Government ;
- (c) nine members elected by the Corporation as follows :—
 - (i) three members from among the members of the Corporation nominated by the Provincial Governments ;
 - (ii) two members from among the members of the Corporation representing employers ;
 - (iii) two members from among the members of the Corporation representing employees ;
 - (iv) one member from among the members of the Corporation representing the medical profession ; and
 - (v) one member from among the members of the Corporation elected by the Central Legislature.

9. Term of office of members of Standing Committee.

(1) Save as otherwise expressly provided in this Act, the term of office of a member of the Standing Committee, other than a member

¹ The Standing Committee was constituted under Ministry of Labour Notification No. SS 21 (3), dated 9th October, 1948

referred to in clause (a) or clause (b) of section 8, shall be two years from the date on which his election is notified :

Provided that a member of the Standing Committee shall, notwithstanding the expiry of the said period of two years, continue to hold office until the election of his successor is notified :

Provided further that a member of the Standing Committee shall cease to hold office when he ceases to be a member of the Corporation.

(2) A member of the Standing Committee referred to in clause (a) or clause (b) of section 8 shall hold office during the pleasure of the Central Government.

10. Medical Benefit Council.—(1) The Central Government shall constitute a Medical Benefit Council¹ consisting of—

- (a) the Director General, Health Services, *ex-officio*, as Chairman ;
- (b) a Deputy Director General, Health Services, to be nominated by the Central Government ;
- (c) the Medical Commissioner of the Corporation, *ex-officio* ;
- (d) one member each representing each of the Governor's Provinces to be nominated by the Provincial Government concerned ;
- (e) three members representing employers to be nominated by the Central Government in consultation with such organisations of employers as may be recognised for the purpose by the Central Government ;
- (f) three members representing employees to be nominated by the Central Government in consultation with such organisations of employees as may be recognised for the purpose by the Central Government ; and
- (g) three members, of whom not less than one shall be a woman, representing the medical profession, to be nominated by the Central Government in consultation with such organisations of medical practitioners as may be recognised for the purpose by the Central Government.

(2) Save as otherwise expressly provided in this Act, the term of office of a member of the Medical Benefit Council, other than a

¹ The Medical Benefit Council was constituted under Ministry of Labour Notification SS 21 (4), dated the 28th December, 1948.

member referred to in any of the clauses (a) to (d) of sub-section (1), shall be four years from the date on which his nomination is notified.

(3) A member of the Medical Benefit Council referred to in clauses (b) and (d) of sub-section (1) shall hold office during the pleasure of the Government nominating him.

11. Resignation of membership.—A member of the Corporation, the Standing Committee or the Medical Benefit Council may resign his office by notice in writing to the Central Government and his seat shall fall vacant on the acceptance of the resignation by that Government.

12. Cessation of membership—A member of the Corporation, the Standing Committee, or the Medical Benefit Council shall cease to be a member of that body if he fails to attend three consecutive meetings thereof.

Provided that the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, may, subject to rules made by the Central Government in this behalf, restore him to membership.

13. Disqualification.—A person shall be disqualified for being chosen as or for being a member of the Corporation, the Standing Committee or the Medical Benefit Council—

- (a) if he is declared to be of unsound mind by a competent Court ; or
- (b) if he is an undischarged insolvent ; or
- (c) if he has directly or indirectly by himself or by his partner any interest in a subsisting contract with, or any work being done for, the Corporation except as a medical practitioner or as a shareholder* (not being a Director) of a company ; or
- (d) if before or after the commencement of this Act, he has been convicted of an offence involving moral turpitude.

14. Filling of vacancies.—(1) Vacancies in the office of nominated or elected members of the Corporation, the Standing Committee and the Medical Benefit Council shall be filled by nomination or election, as the case may be.

(2) A member of the Corporation, the Standing Committee or the Medical Benefit Council nominated or elected to fill a casual vacancy shall hold office only so long as the member in whose place he is

nominated or elected would have been entitled to hold office if the vacancy had not occurred.

15. Fees and allowances.—Members of the Corporation, the Standing Committee and the Medical Benefit Council shall receive such fees and allowances as may from time to time be prescribed by the Central Government.

16. Principal Officers.—(1) The Central Government may, in the case of the first appointments itself and in the case of subsequent appointments, in consultation with the Corporation, appoint the following officers (hereinafter referred to as Principal Officers) of the Corporation, namely :—

- (a) a Director General of Employees' State Insurance¹ ;
- (b) an Insurance Commissioner ;
- (c) a Medical Commissioner ;
- (d) a Chief Accounts Officer ; and
- (e) an Actuary.

(2) The Director General shall be the Chief Executive Officer of Corporation.

(3) The Principal Officers shall be whole-time officers of the Corporation and shall not undertake any work unconnected with their office without the sanction of the Central Government.

(4) A Principal Officer shall hold office for such period, not exceeding five years, as may be specified in the order appointing him. An outgoing Principal Officer shall be eligible for reappointment if he is otherwise qualified.

(5) A Principal Officer shall receive such salary and allowances as may be prescribed by the Central Government.

(6) A person shall be disqualified from being appointed as or for being a Principal Officer if he is subject to any of the disqualifications specified in section 13.

(7) The Central Government may at any time remove a Principal officer from office and shall do so if such removal is recommended by a resolution of the Corporation passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the total strength of the Corporation.

¹ Dr C. L. Katial was appointed the Director General of Employees' State Insurance under Ministry of Labour Notification No SS. 21 (2) (3), dated the 31st August, 1948.

17. Staff.—(1) The Corporation may employ such other staff of officers and servants as may be necessary for the efficient transaction of its business provided that the sanction of the Central Government shall be obtained for the creation of any post with a maximum monthly salary of five hundred rupees and above.

(2) The Corporation shall, with the approval of the Central Government, make regulations regarding the method of recruitment, pay and allowances, discipline, superannuation benefits and other conditions of service of the members of its staff.

(3) Every appointment to posts carrying a maximum monthly pay of five hundred rupees and above shall be made in consultation with the Federal Public Service Commission :

Provided that this sub-section shall not apply to an officiating or temporary appointment for an aggregate period not exceeding one year

18. Powers of the Standing Committee.—(1) Subject to the general superintendence and control of the Corporation, the Standing Committee shall administer the affairs of the Corporation and may exercise any of the powers and perform any of the functions of the Corporation.

(2) The Standing Committee shall submit for the consideration and decision of the Corporation all such cases and matters as may be specified in the regulations made in this behalf.

(3) The Standing Committee may, in its discretion, submit any other case or matter for the decision of the Corporation.

19. Corporation's power to promote measures for health, etc., of insured persons.—The Corporation may, in addition to the scheme of benefits specified in this Act, promote measures for the improvement of the health and welfare of insured persons and for the rehabilitation and re-employment of insured persons who have been disabled or injured and may incur in respect of such measures expenditure from the funds of the Corporation within such limits as may be prescribed by the Central Government.

20. Meetings of Corporation, Standing Committee and Medical Benefit Council.—Subject to any rules made under this Act, the Corporation, the Standing Committee and the Medical Benefit Council shall meet at such times and places and shall observe such rules or procedure in regard to transaction of business at

their meetings as may be specified in the regulations made in this behalf.

21. Supersession of the Corporation and Standing Committee.—(1) If in the opinion of the Central Government, the Corporation or the Standing Committee persistently makes default in performing the duties imposed on it by or under this Act or abuses its powers, that Government may, by notification in the official Gazette, supersede the Corporation, or in the case of the Standing Committee, supersede in consultation with the Corporation, the Standing Committee :

Provided that before issuing a notification under this sub-section the Central Government shall give a reasonable opportunity to the Corporation or the Standing Committee, as the case may be, to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Corporation or the Standing Committee, as the case may be.

(2) Upon the publication of a notification under sub-section (1) superseding the Corporation or the Standing Committee, all the members of the Corporation or the Standing Committee, as the case may be, shall, as from the date of such publication, be deemed to have vacated their offices.

(3) When the Standing Committee has been superseded, a new Standing Committee shall be immediately constituted in accordance with section 8.

(4) When the Corporation has been superseded, the Central Government may—

(a) immediately nominate or cause to be nominated or elected new members to the Corporation in accordance with section 4 and may constitute a new Standing Committee under section 8 ;

(b) in its discretion, appoint such agency, for such period as it may think fit, to exercise the powers and perform the functions of the Corporation and such agency shall be competent to exercise all the powers and perform all the functions of the Corporation.

(5) The Central Government shall cause a full report of any action taken under this section and the circumstances leading to

such action to be laid before the Central Legislature at the earliest opportunity and in any case not later than three months from the date of the notification superseding the Corporation or the Standing Committee, as the case may be.

22. Duties of Medical Benefit Council.—The Medical Benefit Council shall—

- (a) advise the Corporation, the Standing Committee and the Medical Commissioner on matters relating to the administration of medical benefit, the certification for purposes of the grant of benefits and other connected matters ;
- (b) have such powers and duties of investigation as may be prescribed in relation to complaints against medical practitioners in connection with medical treatment and attendance ; and
- (c) perform such other duties in connection with medical treatment and attendance as may be specified in the regulations.

23. Duties of Principal Officers.—The Principal Officers shall exercise such powers and discharge such duties as may be prescribed. They shall also perform such other functions as may be specified in the regulations.

24. Acts of Corporation, etc., not invalid by reasons of defect in constitution, etc.—No act of the Corporation, the Standing Committee or the Medical Benefit Council shall be deemed to be invalid by reason of any defect in the constitution of the Corporation, the Standing Committee or the Medical Benefit Council, or on the ground that any member thereof was not entitled to hold or continue in office by reason of any disqualification or of any irregularity in his nomination or election, or by reason of such act having been done during the period of any vacancy in the office of any member of the Corporation, the Standing Committee or the Medical Benefit Council.

25. Regional Boards, Local Committees, Regional and Local Medical Benefit Councils.—The Corporation may appoint Regional Boards, Local Committees and Regional and Local Medical Benefit Councils in such areas and in such manner, and delegate to them such powers and functions, as may be provided by the regulations.

CHAPTER III.

FINANCE AND AUDIT.

26. Employees' State Insurance Fund.—(1) All contributions paid under this Act and all other moneys received on behalf of the Corporation shall be paid into a fund called the Employees' State Insurance Fund which shall be held and administered by the Corporation for the purposes of this Act.

(2) The Corporation may accept grants, donations and gifts from the Central or any Provincial Government, Indian State, local authority, or any individual or body whether incorporated or not, for all or any of the purposes of this Act.

(3) All moneys accruing or payable to the said Fund shall be received by such officers of the Corporation as may be authorised by it in this behalf and shall forthwith be paid by them into the Reserve Bank of India or such other bank as may be approved by the Central Government, to an account styled the account of the Employees' State Insurance Fund

(4) Such account shall be operated on by such officers as may be authorised by the Standing Committee with the approval of the Corporation.

27. Grant by the Central Government.—The Central Government shall, every year during the first five years, make a grant to the Corporation of a sum equivalent to two-thirds of the administrative expenses of the Corporation not including therein the cost of any benefits provided by or under this Act.

28. Purposes for which the Fund may be expended.—Subject to the provisions of this Act and of rules made by the Central Government in that behalf, the Employees' State Insurance Fund shall be expended only for the following purposes, namely:—

- (i) payment of benefits and provision of medical treatment and attendance to insured persons and, where the medical benefit is extended to their families, the provision of such medical benefit to their families, in accordance with the provisions of this Act and defraying the charges and costs in connection therewith;
- (ii) payment of fees and allowances to members of the Corporation, the Standing Committee and the Medical Benefit Council, the Regional Boards, Local Committees and Regional and Local Medical Benefit Councils;

- (vi) payment of salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contributions to provident or other benefit fund of officers and servants of the Corporation and meeting the expenditure in respect of offices and other services set up for the purpose of giving effect to the provisions of this Act ;
- (v) establishment and maintenance of hospitals, dispensaries and other institutions and the provision of medical and other ancillary services for the benefit of insured persons and, where the medical benefit is extended to their families, their families ;
- (v) payment of contributions to any Provincial Government, Indian State, local authority or any private body or individual, towards the cost of medical treatment and attendance provided to insured persons and, where the medical benefit is extended to their families, their families including the cost of any building and equipment, in accordance with any agreement entered into by the Corporation ;
- (vi) defraying the cost (including all expenses) of auditing the accounts of the Corporation and of the valuation of its assets and liabilities ;
- (vii) defraying the cost (including all expenses) of the Employees' Insurance Courts set up under this Act ;
- (viii) payment of any sums under any contract entered into for the purposes of this Act by the Corporation or the Standing Committee or by any officer duly authorised by the Corporation or the Standing Committee in that behalf ;
- (ix) payment of sums under any decree, order or award of any Court or Tribunal against the Corporation or any of its officers or servants for any act done in the execution of his duty or under a compromise or settlement of any suit or other legal proceeding or claim instituted or made against the Corporation ;
- (x) defraying the cost and other charges of instituting or defending any civil or criminal proceedings arising out of any action taken under this Act ;

- (vi) defraying expenditure, within the limits prescribed, on measures for the improvement of the health and welfare of insured persons and for the rehabilitation and re-employment of insured persons who have been disabled or injured ; and
- (xv) such other purposes as may be authorised by the Corporation with the previous approval of the Central Government.

29. Holding of property, etc.—(1) The Corporation may, subject to such conditions as may be prescribed by the Central Government, acquire and hold property both movable and immovable, sell or otherwise transfer any movable or immovable property which may have become vested in or have been acquired by it and do all things necessary for the purposes for which the Corporation is established.

(2) Subject to such conditions as may be prescribed by the Central Government, the Corporation may from time to time invest any moneys which are not immediately required for expenses properly defrayable under this Act and may, subject as aforesaid, from time to time re-invest or realise such investments.

(3) The Corporation may, with the previous sanction of the Central Government and on such terms as may be prescribed by it, raise loans and take measures for discharging such loans

(4) The Corporation may constitute for the benefit of its staff or any class of them, such provident or other benefit fund as it may think fit.

30. Vesting of the property in the Corporation.—All property acquired before the establishment of the Corporation shall vest in the Corporation and all income derived and expenditure incurred in this behalf shall be brought into the books of the Corporation.

31. Expenditure by Central Government to be treated as a loan.—All expenditure incurred by the Central Government for and in connection with the establishment of the Corporation up to the date of its establishment shall be treated as a loan advanced by the Central Government to the Corporation and such loan shall be adjusted against grants from the Central Government to the Corporation.

32. Budget estimates.—The Corporation shall in each year frame a budget showing the probable receipts and the expenditure which it proposes to incur during the following year and shall submit a copy of the budget for the approval of the Central Government before such date as may be fixed by it in that behalf. The budget shall contain provisions adequate in the opinion of the Central Government for the discharge of the liabilities incurred by the Corporation and for the maintenance of a working balance.

33. Accounts.—The Corporation shall maintain correct account of its income and expenditure in such form and in such manner as may be prescribed by the Central Government.

34. Audit.—(1) The accounts of the Corporation shall be audited, at such times and in such manner as may be prescribed, by auditors appointed by the Central Government.

(2) The auditors shall at all reasonable times have access to the books, accounts and other documents of the Corporation and may, for the purposes of the audit, call for such explanation and information as they may require or examine any principal or other officer of the Corporation.

(3) The auditors shall forward to the Central Government a copy of their report together with an audited copy of the accounts of the Corporation.

(4) The cost of the audit as determined by the Central Government shall be paid out of the funds of the Corporation.

35. Annual report.—The Corporation shall submit to the Central Government an annual report of its work and activities.

36. Budget, audited accounts and the annual report to be placed before the Central Legislature.—The annual report, the audited accounts of the Corporation, and the budget as finally adopted by the Corporation shall be placed before the Central Legislature and published in the official Gazette.

37. Valuation of assets and liabilities.—The Corporation shall, at intervals of five years, have a valuation of its assets and liabilities made by a valuer appointed with the approval of the Central Government :

Provided that it shall be open to the Central Government to direct a valuation to be made at such other times as it may consider necessary.

CHAPTER IV.

CONTRIBUTIONS.

38. All employees to be insured.—Subject to the provisions of this Act, all employees in factories or establishments to which this Act applies shall be insured in the manner provided by this Act

39. Contributions.—(1) The contribution payable under this Act in respect of an employee shall comprise contribution payable by the employer (hereinafter referred to as the employer's contribution) and contribution payable by the employee (hereinafter referred to as the employee's contribution) and shall be paid to the Corporation

(2) The contributions shall be paid at the rates specified in the First Schedule, and in case where the provisions of this Act are made applicable to any employee or class of employees in any factory or establishment or class of factories or establishments in such manner that they are excluded from some of the benefits under this Act, at such rates as the Corporation may fix in this behalf

(3) A week shall be the unit in respect of which all contributions shall be payable under this Act.

(4) The contributions payable in respect of each week shall ordinarily fall due on the last day of the week, and where an employee is employed for part of the week, or is employed under two or more employers during the same week, the contributions shall fall due on such days as may be specified in the regulations.

40. Principal employer to pay contributions in first instance.—(1) The principal employer shall pay in respect of every employee, whether directly employed by him or by or through an immediate employer, both the employer's contribution and the employee's contribution.

(2) Notwithstanding anything contained in any other enactment but subject to the provisions of this Act and the regulations, if any, made thereunder, the principal employer shall, in the case of an employee directly employed by him (not being an exempted employee), be entitled to recover from the employee the employee's contribution by deduction from his wages and not otherwise :

Provided that no such deduction shall be made from any wages other than such as relate to the period or part of the period in respect of which the contribution is payable, or in excess of the sum representing the employee's contribution for the period

(3) Notwithstanding any contract to the contrary, neither the principal employer nor the immediate employer shall be entitled to deduct the employer's contribution from any wages payable to an employee or otherwise to recover it from him.

(4) Any sum deducted by the principal employer from wages under this Act shall be deemed to have been entrusted to him by the employee for the purpose of paying the contribution in respect of which it was deducted.

(5) The principal employer shall bear the expenses of remitting the contributions to the Corporation.

41. Recovery of contribution from immediate employer.—

(1) A principal employer, who has paid contribution in respect of an employee employed by or through an immediate employer, shall be entitled to recover the amount of the contribution so paid (that is to say the employer's contribution as well as the employee's contribution, if any) from the immediate employer, either by deduction from any amount payable to him by the principal employer under any contract, or as a debt payable by the immediate employer.

(2) In the case referred to in sub-section (1), the immediate employer shall be entitled to recover the employee's contribution from the employee employed by or through him by deduction from wages and not otherwise, subject to the conditions specified in the proviso to sub-section (2) of section 40.

Explanation.—For the purposes of sections 40 and 41, wages shall be deemed to include payment to an employee in respect of any period of authorised leave, lock-out or legal strike.

42. General provisions as to payment of contributions.—

(1) No employee's contribution shall be payable by or on behalf of an employee whose average daily wages are below one rupee.

Explanation.—The average daily wages of an employee shall be calculated in the manner specified in the First Schedule.

(2) Contribution (both the employer's contribution and the employee's contribution) shall be payable by the principal employer for each week during the whole or part of which an employee is employed.

(3) Where wages are payable to an employee for a portion of the week, the employer shall be liable to pay both the employer's contribution and the employee's contribution for the week in full but

shall be entitled to recover from the employee the employee's contribution.

(4) No contribution shall be payable in respect of an employee for any week during the whole of which no services are rendered by an employee and in respect of which no wages are payable to him.

(5) Notwithstanding the provisions of sub-section (4), contribution shall be payable, in respect of any week during which no services are rendered by and no wages are paid to an employee, at the rate at which contribution was last paid, where the failure to render such services is due to the employee being on authorised leave, or is due to a lock-out or a legal strike, if in respect of the period covered by such legal strike the employee receives wages in full or in part

43. Method of payment of contribution.—Subject to the provisions of this Act, the Corporation may make regulations for any matter relating or incidental to the payment and collection of contributions payable under this Act and without prejudice to the generality of the foregoing power such regulations may provide for—

- (a) the manner and time of payment of contributions ,
- (b) the payment of contributions by means of adhesive or other stamps affixed to or impressed upon books, cards or otherwise and regulating the manner, times and conditions in, at and under which, such stamps are to be affixed or impressed ;
- (c) the entry in or upon books or cards of particulars of contributions paid and benefits distributed in the case of the insured persons to whom such books or cards relate ; and
- (d) the issue, sale, custody, production, inspection and delivery of books or cards and the replacement of books or cards which have been lost, destroyed or defaced

44. Returns by employers.—Every principal and immediate employer shall submit to the Corporation or to such officer of the Corporation as it may direct such returns in such form and containing such particulars relating to persons employed by him, as may be specified in regulations made in this behalf.

45. Inspectors, their functions and duties.—(1) The Corporation may appoint such persons as Inspectors, as it thinks fit, for the purposes of this Act, within such local limits as it may assign to them.

(2) Any Inspector appointed by the Corporation under sub-section (1) (hereinafter referred to as Inspector), or other official of the Corporation authorised in this behalf by it may, for the purposes of enquiring into the correctness of any of the particulars stated in any return referred to in section 44 or for the purpose of ascertaining whether any of the provisions of this Act has been complied with—

- (a) require any principal or immediate employer to furnish to him such information as he may consider necessary for the purposes of this Act ; or
- (b) at any reasonable time enter any office, establishment, factory or other premises occupied by such principal or immediate employer and require any person found in charge thereof to produce to such Inspector or other official and allow him to examine such accounts, books and other documents relating to the employment of persons and payment of wages or to furnish to him such information as he may consider necessary ; or
- (c) examine, with respect to any matter relevant to the purposes aforesaid, the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises, or any person whom the said Inspector or other official has reasonable cause to believe to be or to have been an employee ;

(3) An Inspector shall exercise such functions and perform such duties as may be authorised by the Corporation or as may be specified in the regulations.

CHAPTER V.

BENEFITS.

46. Benefits.—(1) Subject to the provisions of this Act, the insured persons or, as the case may be, their dependants shall be entitled to the following benefits, namely:—

- (a) periodical payments to any insured person in case of his sickness certified by a duly appointed medical practitioner (hereinafter referred to as sickness benefit) ;
- (b) periodical payments in case of confinement to an insured woman, certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as maternity benefit) ;

- (c) periodical payments to an insured person suffering from disablement as a result of an employment injury sustained as an employee under this Act and certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as disablement benefit) ;
- (d) periodical payments to such dependants of an insured person who dies as a result of an employment injury sustained as an employee under this Act, as are entitled to compensation under this Act (hereinafter referred to as dependants' benefit) ; and
- (e) medical treatment for and attendance on insured persons (hereinafter referred to as medical benefit)

(2) The Corporation may, at the request of the appropriate Government and subject to such conditions as may be laid down in the regulations, extend the medical benefits to the family of an insured person

47. When person eligible for sickness benefit.—A person shall be qualified to claim sickness benefit during any benefit period, if during the corresponding contribution period, weekly contributions in respect of him were payable for not less than two-thirds of the number of weeks during which he shall be deemed to have been available for employment within the meaning of section 48, subject to a minimum of twelve contributions

Provided that the Corporation may waive the minimum number of contributions during the first contribution period

48. When person deemed available for employment.—A person shall always be deemed to have been available for employment in any week, except when during the whole of such week,—

- (a) he was unable to work on account of sickness which had been duly certified, whether entitling him to receive sickness benefit or not, or
- (b) he was qualified to receive disablement benefit for temporary disablement, or
- (c) in the case of an insured woman, she was entitled to the maternity benefit provided in section 50 or she would have been entitled to such benefit if she had fulfilled all other conditions entitling her thereto.

49. Sickness benefit.—Subject to the provisions of this Act and the regulations, if any, a person qualified to claim sickness benefit in accordance with section 47 shall be entitled to receive such benefit at the rates specified in the Second Schedule for the period of his sickness :

Provided that he shall not be entitled to the benefit for an initial waiting period of two days except in the case of a spell of sickness following at an interval of not more than fifteen days, the spell of sickness for which sickness benefit was last paid .

Provided further that sickness benefit shall not be paid to any person for a number of days in excess of the number which taken together with the number of days for which he has already received the benefit makes up a total of fifty-six days during any continuous period of three hundred and sixty-five days.

50. Maternity benefit.—(1) An insured woman shall be qualified to claim maternity benefit for a confinement occurring in a benefit period if during the corresponding contribution period, weekly contributions in respect of her were payable for not less than two-thirds of the number of weeks during which she shall be deemed to have been available for employment within the meaning of section 48, subject to a minimum of twelve contributions :

Provided that at least one contribution has been paid between thirty-five and forty weeks before the week in which the confinement takes place or in which notice of pregnancy is given before confinement whichever is more advantageous to the insured person.

(2) Subject to the provisions of this Act, and the regulations, if any, an insured woman who is qualified to claim maternity benefit in accordance with sub-section (1) shall be entitled to receive it at the rate of twelve annas a day for all days on which she does not work for remuneration during a period of twelve weeks of which not more than six shall precede the expected date of confinement.

51. Disablement benefit.—(1) Subject to the provisions of this Act, and the regulations, if any, disablement benefit shall be payable—

- (a) to a person who sustains temporary disablement, during the period of such disablement ;
- (b) to a person who sustains permanent partial disablement, during his life ;
- (c) to a person who sustains permanent total disablement during his life ; and

- (d) to a person, in all cases of disablement not falling under sub-clauses (a), (b) or (c) of this sub-section, as may be provided in the regulations.

(2) Disablement benefit shall be paid on the scale and subject to the conditions specified in this behalf in the Second Schedule.

52. Dependants' benefit.—Where an insured person dies as a result of an employment injury sustained as an employee under this Act, dependants' benefit shall be payable subject to the provisions of this Act and the regulations, if any, to his dependants at such rates and for such period as is specified in the Second Schedule.

53. Disablement and dependants' benefits.—Where an insured person is or his dependants are entitled to receive or recover, whether from the employer of the insured person or from any other person any compensation or damages under the Workmen's Compensation Act, 1923 (VIII of 1923), or otherwise, in respect of an employment injury sustained by the insured person as an employee under this Act, then the following provisions shall apply, namely:—

- (i) The insured person shall, in lieu of such compensation or damages, receive the disablement benefit provided by this Act, [but subject otherwise to the conditions specified in the Workmen's Compensation Act, 1923 (VIII of 1923)] from the Corporation and not from the employer or other person.
- (ii) If the insured person dies as a result of the employment injury sustained as an employee under this Act (whether or not he was in receipt of any periodical payment for temporary disablement in respect of the injury), dependants' benefit shall be payable at the rates and in the proportion specified in the Second Schedule to his widow or widows during her or their widowhood, and to minor legitimate or adopted sons and minor legitimate unmarried daughters.
- (iii) In case the insured person does not leave him surviving any widow or children as mentioned in clause (ii) or in the case of an insured woman if she does not leave her surviving any children as mentioned in clause (ii), dependant's benefit shall be paid to the other dependants of the deceased at such rates as may be determined by the Commissioner appointed under the Workmen's Compensation Act, 1923 (VIII of 1923)

- (iv) The amount of dependants' benefit payable under clause (iii) shall not exceed one-half of the amount which would have been payable to the insured person as benefit on permanent total disablement.
- (v) Save as modified by this Act, the obligations and liabilities imposed on an employer by the Workmen's Compensation Act, 1923 (VIII of 1923), shall continue to apply to him.

54. Medical examination.—All medical examinations and treatment referred to in the Workmen's Compensation Act, 1923 (VIII of 1923), shall for the purposes of this Act, be carried out by duly appointed medical practitioners

55. Review of benefits.—(1) Any payment of disablement benefit may be reviewed by the Commissioner appointed under the Workmen's Compensation Act, 1923 (VIII of 1923), on the application of—

- (a) an Insurance Officer of the Corporation, or
- (b) the person receiving the benefit,

and such application shall be accompanied by a certificate of a duly appointed medical officer :

Provided that such application may be made without such certificate in such circumstances as may be specified in the regulations made in this behalf.

(2) Subject to the provisions of this Act, the Commissioner may, on such review as afore-said, direct that the disablement benefit be continued, increased, reduced or discontinued.

56. Medical benefit.—(1) An insured person or (where such medical benefit is extended to his family) a member of his family whose condition requires medical treatment and attendance shall be entitled to receive medical benefit.

(2) Such medical benefit may be given either in the form of out-patient treatment and attendance in a hospital or dispensary, clinic or other institution or by visits to the home of the insured person or treatment as in-patient in a hospital or other institution.

(3) A person shall be entitled to medical benefit during any week for which contributions are payable in respect of him or in which he is qualified to claim sickness benefit or maternity benefit or, as provided under the regulations, is in receipt of disablement benefit :

Provided that a person in respect of whom contribution ceases to be payable under this Act may be allowed medical benefit for such period and of such nature as may be provided under the regulations.

57. Scale of medical benefit.—(1) An insured person and (where such medical benefit is extended to his family) his family shall be entitled to receive medical benefit only of such kind and on such scale as may be provided by the Provincial Government or by the Corporation, and an insured person or, where such medical benefit is extended to his family, his family shall not have a right to claim any medical treatment except such as is provided by the dispensary, hospital, clinic or other institution to which he or his family is allotted, or as may be provided by the regulations.

(2) Nothing in this Act shall entitle an insured person and (where such medical benefit is extended to his family) his family to claim reimbursement from the Corporation of any expenses incurred in respect of any medical treatment, except as may be provided by the regulations.

58. Provision of medical treatment by Provincial Government.—(1) The Provincial Government shall provide for insured persons and (where such benefit is extended to their families) their families in the Province, reasonable medical, surgical and obstetric treatment.

Provided that the Provincial Government may, with the approval of the Corporation, arrange for medical treatment at clinics of medical practitioners on such scale and subject to such terms and conditions as may be agreed upon.

(2) Where the incidence of sickness benefit payment to insured persons in any Province is found to exceed the all-India average, the amount of such excess shall be shared between the Corporation and the Provincial Government in such proportion as may be fixed by agreement between them.

Provided that the Corporation may in any case waive the recovery of the whole or any part of the share which is to be borne by the Provincial Government.

(3) The Corporation may enter into an agreement with a Provincial Government in regard to the nature and scale of the medical treatment that should be provided to insured persons and (where such medical benefit is extended to the families) their families (including provision of buildings, equipment, medicines, and staff) and for the

sharing of the cost thereof and of any excess in the incidence of sickness benefit to insured persons between the Corporation and the Provincial Government

(4) In default of agreement between the Corporation and any Provincial Government as aforesaid the nature and extent of the medical treatment to be provided by the Provincial Government and the proportion in which the cost thereof and of the excess in the incidence of sickness benefit shall be shared between the Corporation and that Government, shall be determined by an Arbitrator (who shall be or shall have been a Judge of the High Court of a Province) appointed by the Chief Justice of India and the award of the Arbitrator shall be binding on the Corporation and the Provincial Government.

59. Establishment and maintenance of hospitals, etc., by Corporation.—(1) The Corporation may, with the approval of the Provincial Government, establish and maintain in a Province such hospitals, dispensaries and other medical and surgical services as it may think fit for the benefit of insured persons and (where such medical benefit is extended to their families) their families.

(2) The Corporation may enter into agreement with any Indian State, local authority, private body or individual in regard to the provision of medical treatment and attendance for insured persons and (where such medical benefit is extended to their families) their families, in any area and sharing the cost thereof.

GENERAL.

60. Benefit not assignable or attachable.—(1) The right to receive any payment of any benefit under this Act shall not be transferable or assignable.

(2) No cash benefit payable under this Act shall be liable to attachment or sale in execution of any decree or order of any Court.

61. Bar of benefits under other enactments.—When a person is entitled to any of the benefits provided by this Act, he shall not be entitled to receive any similar benefit admissible under the provisions of any other enactment.

62. Persons not to commute cash benefits.—Save as may be provided in the regulations no person shall be entitled to commute for a lump sum any periodical payment admissible under this Act.

63. Persons not entitled to receive benefits in certain cases.—No person shall be entitled to sickness benefit or maternity benefit, or disablement benefit for temporary disablement in respect of any day on which he works and receives wages

64. Recipients of sickness or disablement benefit to observe conditions.—A person who is in receipt of sickness benefit or disablement benefit (other than benefit granted on permanent disablement)—

- (a) shall remain under medical treatment at a dispensary, hospital, clinic or other institution provided under this Act and shall carry out the instructions given by the medical officer or medical attendant in charge thereof ;
- (b) shall not while under treatment do anything which might retard or prejudice his chances of recovery ;
- (c) shall not leave the area in which medical treatment provided by this Act is being given, without the permission of the medical officer, medical attendant or such other authority as may be specified in this behalf by the regulations ; and
- (d) shall allow himself to be examined by any duly appointed medical officer or sick visitor or other person authorised by the Corporation in this behalf.

65. Benefits not to be combined.—(1) An insured person shall not be entitled to receive for the same period—

- (a) both sickness benefit and maternity benefit , or
- (b) both sickness benefit and disablement benefit for temporary disablement ; or
- (c) both maternity benefit and disablement benefit for temporary disablement.

(2) Where a person is entitled to more than one of the benefits mentioned in sub-section (1), he shall be entitled to choose which benefit he shall receive.

66. Corporation's right to recover damages from employer in certain cases.—(1) Where any employment injury is sustained by an insured person as an employee under this Act by reason of the negligence of the employer to observe any of the safety rules laid down by or under any enactment applicable to a factory or establishment or by reason of any wrongful act of the employer or his agent, the Corporation shall notwithstanding the fact that the

employer has paid the weekly contributions due under this Act in respect of such insured person be entitled to be reimbursed by the employer or the principal who is liable to pay compensation under section 12 of the Workmen's Compensation Act, 1923 (VIII of 1923), the actuarial present value of the periodical payments which the Corporation is liable to make under this Act

(2) For the purposes of this Act, the actuarial present value of the periodical payments shall be determined in such manner as may be specified in the regulations.

67. Corporation's right to be indemnified in certain cases.—

Where an insured person is entitled to receive or to recover (but has not received or recovered), whether from his employer or any other person, compensation or damages under any law for the time being in force in respect of any employment injury caused under circumstances creating a legal liability in some person other than the employer or his agent, the Corporation shall be entitled to be indemnified by the person so liable.

Provided that the Corporation shall not be entitled to be indemnified by an employer who has paid contributions in respect of the employee sustaining the employment injury as an employee under this Act, except in cases covered by section 66.

68. Corporation's right where a principal employer fails or neglects to pay any contribution. —(1) If any principal employer fails or neglects to pay any contribution which under this Act he is liable to pay in respect of any employee and by reason thereof such person becomes disentitled to any benefit or entitled to a benefit on a lower scale, the Corporation may, on being satisfied that the contribution should have been paid by the principal employer, pay to the person the benefit at the rate to which he would have been entitled if the failure or neglect had not occurred and the Corporation shall be entitled to recover from the principal employer either—

(i) the difference between the amount of benefit which is paid to the said person and the amount of the benefit which would be payable on the basis of the contributions which should have been paid by the employer, or

(ii) twice the amount of the contribution which the employer failed or neglected to pay,

whichever is greater.

(2) The amount recoverable under this section may be recovered as if it were an arrear of land-revenue.

69. Liability of owner or occupier of factories, etc., for excessive sickness benefit.—(1) Where the Corporation considers that the incidence of sickness among insured persons is excessive by reason of—

- (i) insanitary working conditions in a factory or establishment or the neglect of the owner or occupier of the factory or establishment to observe any health regulations enjoined on him by or under any enactment, or
- (ii) insanitary conditions of any tenements or lodgings occupied by insured persons and such insanitary conditions are attributable to the neglect of the owner of the tenements or lodgings to observe any health regulations enjoined on him by or under any enactment,

the Corporation may send to the owner or occupier of the factory or establishment or to the owner of the tenements or lodgings, as the case may be, a claim for the payment of the amount of the extra expenditure incurred by the Corporation as sickness benefit ; and if the claim is not settled by agreement, the Corporation may refer the matter, with a statement in support of its claim, to the appropriate Government.

(2) If the appropriate Government is of opinion that a *prima facie* case for inquiry is disclosed, it may appoint a competent person or persons to hold an inquiry into the matter.

(3) If upon such inquiry it is proved to the satisfaction of the person or persons holding the inquiry that the excess in incidence of sickness among the insured persons is due to the default or neglect of the owner or occupier of the factory or establishment or the owner of the tenements or lodgings, as the case may be, the said person or persons shall determine the amount of the extra expenditure incurred as sickness benefit, and the person or persons by whom the whole or any part of such amount shall be paid to the Corporation

(4) A determination under sub-section (3) may be enforced as if it were a decree for payment of money passed in a suit by a Civil Court.

(5) For the purposes of this section, "owner" of tenements or lodgings shall include any agent of the owner and any person who is entitled to collect the rent of the tenements or lodgings as a lessee of the owner.

70. Repayment of benefit improperly received.—(1) Where any person has received any benefit or payment under this Act when he is not lawfully entitled thereto, he shall be liable to repay to the Corporation the value of the benefit or the amount of such payment, or in the case of his death his representative shall be liable to repay the same from the assets of the deceased, if any, in his hands

(2) The value of any benefits received other than cash payments shall be determined by such authority as may be specified in the regulations made in this behalf and the decision of such authority shall be final.

(3) The amount recoverable under this section may be recovered as if it were an arrear of land-revenue.

71. Benefit payable up to and including day of death.—If a person dies during any period for which he is entitled to a cash benefit under this Act, the amount of such benefit up to and including the day of his death shall be paid to any person nominated by the deceased person in writing in such form as may be specified in the regulations or, if there is no such nomination, to the heir or legal representative of the deceased person.

72. Employer not to reduce wages, etc.—No employer by reason only of his liability for any contributions payable under this Act shall, directly or indirectly reduce the wages of any employee, or except as provided by the regulations, discontinue or reduce benefits payable to him under the conditions of his service which are similar to the benefits conferred by this Act.

73. Employer not to dismiss or punish employee during period of sickness, etc.—(1) No employer shall dismiss, discharge, or reduce or otherwise punish an employee during the period the employee is in receipt of sickness benefit or maternity benefit, nor shall he, except as provided under the regulations, dismiss, discharge or reduce or otherwise punish an employee during the period he is in receipt of disablement benefit for temporary disablement or is under medical treatment for sickness or is absent from work as a result of illness duly certified in accordance with the regulations to arise out of the pregnancy or confinement rendering the employee unfit for work.

(2) No notice of dismissal or discharge or reduction given to an employee during the period specified in sub-section (1) shall be valid or operative.

CHAPTER VI

ADJUDICATION OF DISPUTES AND CLAIMS

74. Constitution of Employees' Insurance Court.—(1) The Provincial Government shall, by notification in the official Gazette, constitute an Employees' Insurance Court for such local area as may be specified in the notification

(2) The Court shall consist of such number of Judges as the Provincial Government may think fit.

(3) Any person who is or has been a judicial officer or is a legal practitioner of five years' standing shall be qualified to be a Judge of the Employees' Insurance Court

(4) The Provincial Government may appoint the same Court for two or more local areas or two or more Courts for the same local area

(5) Where more than one Court has been appointed for the same local area, the Provincial Government may by general or special order regulate the distribution of business between them

75. Matters to be decided by Employees' Insurance Court.

--(1) If any question or dispute arises as to—

- (a) whether any person is an employee within the meaning of this Act or whether he is liable to pay the employee's contribution, or
- (b) the rate of wages or average daily wages of an employee for the purposes of this Act, or
- (c) the rate of contribution payable by a principal employer in respect of any employee, or
- (d) the person who is or was the principal employer in respect of any employee, or
- (e) the right of any person to any benefit and as to the amount and duration thereof, or
- (f) the actuarial present value of the periodical payments referred to in section 66, or
- (g) any other matter which is in dispute between a principal employer and the Corporation, or between a principal employer and an immediate employer, or between a person and the Corporation or between an employee and a principal or immediate employer, in respect of any contribution or benefit or other dues payable or recoverable under this Act,

such question or dispute shall be decided by the Employees' Insurance Court in accordance with the provisions of this Act.

(2) The following claims shall be decided by the Employees' Insurance Court, namely :—

- (a) claim for the recovery of contributions from the principal employer ;
- (b) claim by a principal employer to recover contributions from any immediate employer ;
- (c) claim under section 66 or 67 made by the Corporation against the employer or other person liable thereunder ;
- (d) claim against a principal employer under section 68 ;
- (e) claim under section 70 for the recovery of the value or amount of the benefits received by a person when he is not lawfully entitled thereto ; and
- (f) any claim for the recovery of any benefit admissible under this Act.

(3) No Civil Court shall have jurisdiction to decide or deal with any question or dispute as aforesaid or to adjudicate on any liability which by or under this Act is to be decided by the Employees' Insurance Court.

76. Institution of proceedings, etc.—(1) Subject to the provisions of this Act and any rules made by the Provincial Government, all proceedings before the Employees' Insurance Court shall be instituted in the Court appointed for the local area in which the insured person was working at the time the question or dispute arose.

(2) If the Court is satisfied that any matter arising out of any proceeding pending before it can be more conveniently dealt with by any other Employees' Insurance Court in the same Province, it may, subject to any rules made by the Provincial Government in this behalf, order such matter to be transferred to such other Court for disposal and shall forthwith transmit to such other Court the records connected with that matter.

(3) The Provincial Government may transfer any matter pending before any Employees' Insurance Court in the Province to any such Court in another Province with the consent of the Provincial Government of that Province.

(4) The Court to which any matter is transferred under sub-section (2) or sub-section (3) shall continue the proceedings as if they had been originally instituted in it.

77. Commencement of proceedings.—(1) The proceedings before an Employees' Insurance Court shall be commenced by application.

(2) Every such application shall be in such form and shall contain such particulars and shall be accompanied by such fee, if any, as may be prescribed by rules made by the Provincial Government in consultation with the Corporation.

78. Powers of Employees' Insurance Court.—(1) The Employees' Insurance Court shall have all the powers of a Civil Court for the purposes of summoning and enforcing the attendance of witnesses, compelling the discovery and production of documents and material objects, administering oath and recording evidence and such Court shall be deemed to be a Civil Court within the meaning of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898).

(2) The Employees' Insurance Court shall follow such procedure as may be prescribed by rules made by the Provincial Government.

(3) All costs incidental to any proceeding before an Employees' Insurance Court shall, subject to such rules as may be made in this behalf by the Provincial Government, be in the discretion of the Court.

(4) An order of the Employees' Insurance Court shall be enforceable as if it were a decree passed in a suit by a Civil Court.

79. Appearance by legal practitioners, etc.—Any application, appearance or act required to be made or done by any person to or before an Employees' Insurance Court (other than appearance of a person required for the purpose of his examination as a witness) may be made or done by a legal practitioner or by an officer of a registered trade union authorised in writing by such person or with the permission of the Court, by any other person so authorised.

80. Benefit not admissible unless claimed in time.—An Employees' Insurance Court shall not direct the payment of any benefit to a person unless he has made a claim for such benefit in accordance with the regulations made in that behalf, within twelve months after the claim became due:

Provided that if the Court is satisfied that there was reasonable excuse for not making a claim for the benefit within twelve months after it became due, it may direct the payment of the benefit as if the claim had been made in time.

81. Reference to High Court.—An Employees' Insurance Court may submit any question of law for the decision of the High Court and if it does so shall decide the question pending before it in accordance with such decision.

82. Appeal.—(1) Save as expressly provided in this section, no appeal shall lie from an order of an Employees' Insurance Court.

(2) An appeal shall lie to the High Court from an order of an Employees' Insurance Court if it involves a substantial question of law.

(3) The period of limitation for an appeal under this section shall be sixty days.

(4) The provisions of sections 5 and 12 of the Indian Limitation Act, 1908 (XL of 1908), shall apply to appeals under this section.

83. Stay of payment pending appeal.—Where the Corporation has presented an appeal against an order of the Employees' Insurance Court, that Court may, and if so directed by the High Court shall, pending the decision of the appeal, withhold the payment of any sum directed to be paid by the order appealed against.

CHAPTER VII.

PENALTIES.

84. Punishment for false statement.—Whoever, for the purpose of causing any increase in payment of benefit under this Act, or for the purpose of causing any payment, or benefit to be made where no payment or benefit is authorized by or under this Act, or for the purpose of avoiding any payment to be made by himself under this Act or enabling any other person to avoid any such payment, knowingly makes or causes to be made any false statement or false representation, shall be punishable with imprisonment for a term which may extend to three months, or with fine not exceeding five hundred rupees, or with both.

85. Punishment for failure to pay contributions, etc.—If any person—

(a) fails to pay any contribution which under this Act he is liable to pay, or

(b) deducts or attempts to deduct from the wages of an employee the whole or any part of the employer's contribution, or

- (c) in contravention of section 72 reduces the wages or any privileges or benefits admissible to an employee, or
- (d) in contravention of section 73 or any regulation dismisses, discharges, reduces or otherwise punishes an employee, or
- (e) fails or refuses to submit any return required by the regulations or makes a false return, or
- (f) obstructs any Inspector or other official of the Corporation in the discharge of his duties, or
- (g) is guilty of any contravention of or non-compliance with any of the requirements of this Act or the rules or the regulations in respect of which no special penalty is provided,

he shall be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees, or with both.

86. Prosecutions.—(1) No prosecution under this Act shall be instituted except by or with the previous sanction of the Insurance Commissioner.

(2) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

(3) No Court shall take cognizance of any offence under this Act except on a complaint made in writing in respect thereof, within six months of the date on which the offence is alleged to have been committed.

CHAPTER VIII.

MISCELLANEOUS.

87. Exemption of a factory or establishment or class of factories or establishments.—The appropriate Government, may, by notification in the official Gazette and subject to such conditions as may be specified in the notification, exempt any factory or establishment or class of factories or establishments in any specified area from the operation of this Act for a period not exceeding one year and may from time to time by like notification renew any such exemption for periods not exceeding one year at a time.

88. Exemption of persons or class of persons.—The appropriate Government may, by notification in the official Gazette and subject to such conditions as it may deem fit to impose, exempt any

persons or class of persons employed in any factory or establishment or class of factories or establishments to which this Act applies from the operation of the Act.

89. Corporation to make representation.—No exemption shall be granted or renewed under section 87 or section 88, unless a reasonable opportunity has been given to the Corporation to make any representation it may wish to make in regard to the proposal and such representation has been considered by the appropriate Government.

90. Exemption of factories or establishments belonging to Government or any local authority.—The appropriate Government may, by notification in the official Gazette and subject to such conditions as may be specified in the notification, exempt any factory or establishment belonging to the Crown or any local authority, if the employees in any such factory or establishment are otherwise in receipt of benefits substantially similar or superior to the benefits provided under this Act.

91. Exemption from one or more provisions of the Act.—The appropriate Government may, with the consent of the Corporation, by notification in the official Gazette, exempt any employee or class of employees in any factory or establishment or class of factories or establishments from one or more of the provisions relating to the benefits provided under this Act.

92. Power of Central Government to give directions.—The Central Government may give directions to a Provincial Government as to the carrying into execution of this Act in the Province.

93. Corporation officers and servants to be public servants.—All officers and servants of the Corporation shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

94. Contributions, etc., due to Corporation to have priority over other debts.—There shall be deemed to be included among the debts which under section 49 of the Presidency-towns Insolvency Act, 1909 (III of 1909), or under section 61 of the Provincial Insolvency Act, 1920 (V of 1920), or under section 230 of the Indian Companies Act, 1913 (VII of 1913), are, in the distribution of the property of the insolvent or in the distribution of the assets of a company being wound up, to be paid in priority to all other debts, the amount due in respect of any contribution or any other amount payable under this Act the liability wherefor accrued before the date

of the order of adjudication of the insolvent or the date of the winding up, as the case may be.

95. Power of Central Government to make rules.—(1) The Central Government may, subject to the condition of previous publication, make rules not inconsistent with this Act for the purpose of giving effect to the provisions thereof.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely :—

- (a) the manner in which nominations and elections of members of the Corporation, the Standing Committee and the Medical Benefit Council shall be made ;
- (b) the quorum at meetings of the Corporation, the Standing Committee and the Medical Benefit Council and the minimum number of meetings of those bodies to be held in a year ;
- (c) the records to be kept of the transaction of business by the Corporation, the Standing Committee and the Medical Benefit Council ;
- (d) the powers and duties of the Principal Officers and the conditions of their service ;
- (e) the powers and duties of the Medical Benefit Council ,
- (f) the procedure to be adopted in the execution of contracts ,
- (g) the acquisition, holding and disposal of property by the Corporation ;
- (h) the raising and repayment of loans ;
- (i) the investment of the funds of the Corporation and of any provident or other benefit fund and their transfer or realisation ;
- (j) the basis on which the periodical valuation of the assets and liabilities of the Corporation shall be made ;
- (k) the bank or banks in which the funds of the Corporation may be deposited, the procedure to be followed in regard to the crediting of moneys accruing or payable to the Corporation and the manner in which any sums may be paid out of the Corporation funds and the officers by whom such payment may be authorised ;
- (l) the accounts to be maintained by the Corporation and the forms in which such accounts shall be kept and the times at which such accounts shall be audited ;

- (m) the publication of the accounts of the Corporation and the report of auditors, the action to be taken on the audit report, the powers of auditors to disallow and surcharge items of expenditure and the recovery of sums so disallowed or surcharged ;
 - (n) the preparation of budget estimates and of supplementary estimates and the manner in which such estimates shall be sanctioned and published ;
 - (o) the establishment and maintenance of provident or other benefit fund for officers and servants of the Corporation ; and
 - (p) any matter which is required or allowed by this Act to be prescribed by the Central Government.
- (3) Rules made under this section shall be published in the official Gazette and thereupon shall have effect as if enacted in this Act.

96. Power of Provincial Government to make rules.—

- (1) The Provincial Government may, subject to the condition of previous publication, make rules not inconsistent with this act in regard to all or any of the following matters, namely :—
- (a) the constitution of Employees' Insurance Courts, the qualifications of persons who may be appointed Judges thereof, and the conditions of service of such Judges ;
 - (b) the procedure to be followed in proceedings before such Courts and the execution of orders made by such Courts ;
 - (c) the fee payable in respect of applications made to the Employees' Insurance Court, the costs incidental to the proceeding in such Court, the form in which applications should be made to it and the particulars to be specified in such applications ;
 - (d) the establishment of hospitals, dispensaries and other institutions, the allotment of insured persons or their families to any such hospital, dispensary or other institution ;
 - (e) the scale of medical benefit which shall be provided at any hospital, clinic, dispensary or institution, the keeping of medical records and the furnishing of statistical returns ;
 - (f) the nature and extent of the staff, equipment and medi-

cines that shall be provided at such hospitals, dispensaries and institutions ;

(g) the conditions of service of the staff employed at such hospitals, dispensaries and institutions ; and

(h) any other matter which is required or allowed by this Act to be prescribed by the Provincial Government.

(2) Rules made under this section shall be published in the official Gazette and thereupon shall have effect as if enacted in this Act.

97. Power of Corporation to make regulations.—(1) The Corporation may, subject to the condition of previous publication, make regulations, not inconsistent with this Act and the rules made thereunder, for the administration of the affairs of the Corporation and for carrying into effect the provisions of this Act

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

- (i) the time and place of meetings of the Corporation, the Standing Committee and the Medical Benefit Council and the procedure to be followed at such meetings ;
- (ii) the matters which shall be referred by the Standing Committee to the Corporation for decision ;
- (iii) the manner in which any contribution payable under this Act shall be assessed and collected ;
- (iv) reckoning of wages for the purpose of fixing the contribution payable under this Act ;
- (v) the certification of sickness and eligibility for any cash benefit ;
- (vi) the method of determining the actuarial present value of periodical payments ;
- (vii) the assessing of the money value of any benefit which is not a cash benefit ;
- (viii) the time within which and the form in which any claim for a benefit may be made and the particulars to be specified in such claim ;
- (ix) the circumstances in which an employee in receipt of disablement benefit may be dismissed, discharged, reduced or otherwise punished ;
- (x) the manner in which and the place and time at which any benefit shall be paid ;

- (xi) the method of calculating the amount of cash benefit payable and the circumstances in which and the extent to which commutation of disablement and dependant's benefits, may be allowed and the method of calculating the commutation value ;
 - (xii) the notice of pregnancy or of confinement and notice and proof of sickness ;
 - (xiii) the conditions under which any benefit may be suspended ;
 - (xiv) the conditions to be observed by a person when in receipt of any benefit and the periodical medical examination of such persons ;
 - (xv) the visiting of sick persons ;
 - (xvi) the appointment of medical practitioners for the purposes of this Act, the duties of such practitioners and the form of medical certificates ;
 - (xvii) the penalties for breach of regulations by fine (not exceeding two days wages for a first breach and not exceeding three days' wages for any subsequent breach) which may be imposed on employees ;
 - (xviii) the circumstances in which and the conditions subject to which any regulation may be relaxed, the extent of such relaxation, and the authority by whom such relaxation may be granted ;
 - (xix) the returns to be submitted by the principal and immediate employers, the form in which and the times at which such returns should be submitted and the particulars to be given in such returns ;
 - (xx) the duties and powers of Inspectors and other officers and servants of the Corporation ;
 - (xxi) the conditions of service of the officers and servants of the Corporation other than the Principal Officers ;
 - (xxii) the procedure to be followed in remitting contributions to the Corporation ; and
 - (xxiii) any matter in respect of which regulations are required or permitted to be made by this Act.
- (3) Regulations made by the Corporation shall be published in the Gazette of India and thereupon shall have effect as if enacted in this Act.

98. Corporation may undertake duties in the Indian States.—The Corporation may, at the request of the Government of

an Indian State and with the previous permission of the Central Government and subject to such conditions as may be imposed by it, undertake to discharge in the Indian State any duty which may be specified in a State law corresponding to this Act.

99. Enhancement of benefits.—At any time when its funds so permit, the Corporation may enhance the scale of any benefit admissible under this Act and the period for which such benefit may be given, and provide or contribute towards the cost of medical care for the families of insured persons.

SCHEDULE I

(See Section 39)

1. The amount of weekly contribution payable in respect of an employee shall be calculated with reference to his average daily wages.

2. The average daily wages shall be .—

- (a) in respect of an employee employed on daily wages, the amount of wages earned during the week divided by the number of days worked (reckoned in terms of full working days) ;
- (b) in respect of an employee employed on weekly wages, the amount earned in the week divided by the number of days worked (reckoned in terms of full working days) ;
- (c) in respect of an employee employed on monthly wages, the amount earned in the month in which the contribution falls due, divided by the number of days worked (reckoned in terms of full working days) ;
- (d) in respect of an employee employed on the basis of any other wage period, the wages for the period, in which the contribution falls due, divided by the number of days worked (reckoned in terms of full working days) during the period ;
- (e) in respect of an employee paid at piece-work rate, the amount earned during the week divided by the number of days worked (reckoned in terms of full working days) ;
- (f) in respect of an employee employed on hourly wages, the amount of wages earned during the week, divided by the number of hours worked and multiplied by eight ;

(g) in respect of employee who does not fall under clauses (a) to (f), the amount calculated on the basis of wages earned for the day on which the contribution falls due.

Explanation.—Except as provided by regulations, pay, salaries or allowances paid in respect of any period of leave or holidays with pay shall not be taken into account in reckoning wages.

3. (a) For the purposes of fixing the amount of weekly contribution payable, employees shall be divided into eight groups on the basis of their average daily wages ascertained in the manner specified in paragraph 2.

(b) The employees' contribution and employer's contribution payable in respect of the group of employees specified in the first column of the table below shall be at the rates respectively specified in the corresponding entries in the second and third columns thereof.

TABLE

Group of Employees 1	Employees' Contribution (recoverable from employees)	Employers' Contribution	Total Contribution (employees' and employers' contribution)
	2	3	4
	Rs A. P	Rs A. P	Rs A. P
1 Employees whose average daily wages are below Re. 1.	Nil	0 7 0	0 7 0
2. Employees whose average daily wages are Re. 1 and above but below Rs. 1-8-0.	0 2 0	0 7 0	0 9 0
3 Employees whose average daily wages are Rs. 1-8-0 and above but below Rs 2.	0 4 0	0 8 0	0 12 0
4 Employees whose average daily wages are Rs. 2 and above but below Rs. 3.	0 6 0	0 12 0	1 2 0
5 Employees whose average daily wages are Rs 3 and above but below Rs 4.	0 8 0	1 0 0	1 8 0
6 Employees whose average daily wages are Rs 4 and above but below Rs. 6.	0 11 0	1 6 0	2 1 0
7. Employees whose average daily wages are Rs. 6 and above but below Rs 8.	0 15 0	1 14 0	2 13 0
8. Employees whose average daily wages are Rs. 8 and above	1 4 0	2 8 0	3 12 0

SCHEDULE II

(See Sections 49, 51, 52 & 53)

Sickness Benefit and Disablement and Dependents' Benefits

1. The average daily wages of an employee in each of the groups specified in the first column of the table below shall, for the purpose of calculating the sickness benefit and disablement and dependents' benefits be assumed to be the rate specified in the corresponding entry in the second column thereof

TABLE

Groups employees	Average assumed daily wages
1	2
1 Employees whose average daily wages are below Re 1	0 14 0
2 Employees whose average daily wages are Re 1 and above, but below Rs 18-0	1 4 0
3 Employees whose average daily wages are Rs 18-0 and above, but below Rs 2	1 12 0
4 Employees whose average daily wages are Rs 2 and above, but below Rs 3	2 8 0
5 Employees whose average daily wages are Rs 3 and above, but below Rs 4	3 8 0
6 Employees whose average daily wages are Rs 4 and above, but below Rs 6	5 0 0
7 Employees whose average daily wages are Rs 6 and above, but below Rs. 8	7 0 0
8 Employees whose average daily wages are Rs 8 and above	10 0 0

2 The daily rate of sickness benefit during any benefit period shall be an amount equivalent to one-half of the sum of the assumed average daily wages as aforesaid for each of the weeks for which contributions were paid in respect of the person during the corresponding contribution period, divided by the number of weeks in that contribution period in which he was deemed to have been available for employment within the meaning of section 48; provided that where the amount of the benefit so calculated includes a fraction of an anna, it shall be rounded to the next higher anna. The calculation indicated above is illustrated by the following examples:—

Example 1—If the assumed average daily wages of the person as an employee were Rs. 1-4-0 a day for 10 weeks, Rs. 1-12-0 a day

for 10 weeks and Rs. 2-8-0 a day for 6 weeks, the average of the assumed daily wages for the purpose of the rate of sickness benefit will be :—

$$\frac{10 \times 20 + 10 \times 28 + 6 \times 40}{26} = 27 \frac{18}{26}$$

The daily rate sickness benefit payable in the benefit period will then be $13\frac{9}{13}$ annas rounded to the next higher anna, namely, 14 annas.

Example 2—If the person was deemed to have been not available for employment for 14 weeks in any contribution period and was employed as an employee for only 12 weeks in that contribution period, his assumed average daily wages being Rs. 1-4-0 for the 12 weeks, the average of the assumed daily wages for the purpose of the rate of sickness benefit will be :—

$$\frac{12 \times 20}{(26 - 14)} = 20 \text{ annas.}$$

The daily rate of sickness benefit payable in the benefit period will then be 10 annas.

Example 3.—If the person was deemed to have been not available for employment for 4 weeks in any contribution period and was employed as an employee for only 20 weeks (he having been without any employment for 2 weeks) in that contribution period, his assumed average daily wages being Rs. 1-12-0 for 20 weeks, the average of the daily wages for the purpose of the rate of sickness benefit will be :—

$$\frac{20 \times 28}{(26 - 4)} = 25 \frac{5}{11} \text{ annas}$$

The daily rate of sickness benefit payable in the benefit year will then be $12\frac{8}{11}$ annas, rounded to the next higher anna, namely, 13 annas.

3. Disablement and dependants' benefit shall be an amount equivalent to one-half of the sum of the assumed average daily wages for each of the weeks for which contributions were paid in respect of the employee during the period of fifty-two weeks immediately preceding the week in which the employment injury occurs, divided by the number of weeks for which contributions were so paid : provided that where the amount or the benefit so calculated includes a fraction of an anna, it shall be rounded to the next higher anna.

The calculation indicated above is illustrated by the following examples :—

Example 1.—If the assumed average daily wages of an employee were 14 annas a day for 20 weeks, Rs. 1,4-0 a day for 20 weeks and Rs. 1-12-0 a day for 12 weeks, the average of the assumed daily wages for the purpose of disablement and dependants' benefit will be :—

$$\frac{20 \times 14 + 20 \times 20 + 12 \times 28}{52} = 19 \frac{28}{52} \text{ annas}$$

The disablement or dependants' benefit will then be $9 \frac{29}{8}$ to the next higher anna, namely 10 annas a day.

Example 2.—If the employee worked only for 34 weeks in the period of 52 weeks preceding the week in which the employment injury occurs and his assumed average daily wages were 14 annas a day for 20 weeks and Rs. 1-4-0 for 14 weeks, the average of the assumed daily wages for the purpose of disablement and dependants' benefit will be :—

$$\frac{20 \times 14 + 14 \times 20}{34} = 16 \frac{16}{34} \text{ annas}$$

The disablement or dependants' benefit will be $8 \frac{3}{4}$ annas, rounded to the next higher anna, namely, 9 annas a day.

The disablement or dependants' benefits calculated as aforesaid shall be called the full rate.

4. The disablement or dependants' benefit shall be payable to a person suffering from disablement as a result of an employment injury sustained as an employee in a factory or establishment to which this Act applies, or if he dies as a result of such injury, to his dependants, as follows :—

(i) to the insured person—

- (a) for temporary disablement, during the period of such disablement at the full rate ;
- (b) for permanent partial disablement, at a percentage of the full rate, as provided in section 4 of the Workmen's Compensation Act, 1923 (VIII of 1923), for life ;

- (c) for permanent total disablement, at the full rate for life,
- (d) in cases of disablement not covered by clauses (a), (b) and (c) above, as may be provided in the regulations
- (u) in the case of the death of the person, to his widow and children as follows.—

- (a) to the widow during life or until remarriage an amount equivalent to three-fifths of the full rate and, if there are two or more widows, the amount payable to the widow as aforesaid shall be divided equally between the widows ;
- (b) to each legitimate or adopted son, an amount equivalent to two-fifths of the full rate until he attains fifteen years of age ;
- (c) to each legitimate unmarried daughter, an amount equivalent to two-fifths of the full rate until she attains fifteen years of age or until marriage, whichever is earlier :

Provided, that the Corporation may continue such benefit to any legitimate or adopted son or any legitimate unmarried daughter until he or she attains the age of eighteen years if such son or daughter continues education to the satisfaction of the Corporation :

Provided further that if the total of the dependant's benefits distributed among the widow or widows and legitimate children of the deceased person as aforesaid exceeds the full rate, the share of each of the dependants shall be proportionately reduced, so that the total amount payable to them does not exceed the amount of disablement benefit at the full rate.

5. In case the deceased person does not leave a widow or legitimate child, dependants' benefit at such rates as may be determined by the Commissioner appointed under the Workmen's Compensation Act, 1923 (VIII of 1923), shall be payable as follows:—

- (a) to a parent or grand parent, for life ;
- (b) to any other male dependant, until he attains fifteen years of age ;
- (c) to any other female dependant, until she attains fifteen years of age or until marriage, whichever is earlier, or if widowed until she attains fifteen years of age.

EMPLOYEES' STATE INSURANCE (CENTRAL) RULES, 1948 (DRAFT)

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EMPLOYEES' STATE INSURANCE (CENTRAL) RULES, 1948¹ (DRAFT)

CHAPTER I

1. *Short title*—These Rules may be called the Employees' State Insurance (Central) Rules, 1948.

2. *Definitions*.—In these Rules, unless there is anything repugnant in the subject or context,—

- (1) "the Act" means the Employees' State Insurance Act, 1948 (Act XXXIV of 1948) ;
- (2) "Chairman" means the Chairman of the Corporation, the Standing Committee or the Medical Benefit Council as the case may be ,
- (3) "Form" means a form appended to these rules ;
- (4) the "Fund" means the Employees' State Insurance Fund ,
- (5) "Government Securities" means Government Securities as defined in the Indian Securities Act, 1920 ;
- (6) "immovable property" includes land, benefits to arise out of land, things attached to the earth, or permanently fastened to anything attached to the earth ;
- (7) "movable property" means property of every description except immovable property ;
- (8) "year" shall mean the financial year, that is to say, the period beginning from the first of April and ending with the thirty-first of March of the year following

CHAPTER II

3. *Election of members to the Standing Committee*—(1) The Chairman shall, at a meeting of the Corporation at which it is proposed to elect members of the Standing Committee under clause (c) of section 8, invite members to propose names from among members of the Corporation belonging to the group from which election is to be made. The names proposed shall be duly seconded by another member of the Corporation.

(2) If the number proposed from any group for election does not exceed the number of vacancies to be filled from that group, the

¹ These Draft Rules were published under Ministry of Labour Notification No. SS. 22 (1), dated the 4th November, 1948. The Draft has not been finalised up to 23rd September, 1949, although it was stipulated that the Draft would be taken into consideration on or after the 10th December, 1948.

persons whose names have been so proposed shall be declared elected to the Standing Committee.

(3) If the number proposed for election from a group exceeds the number of vacancies to be filled therefrom, each member of the Corporation present at the meeting shall be given a ballot paper containing the names of all the candidates proposed and he shall be required to vote thereon for as many candidates from the group as there are vacancies to be filled up. Not more than one vote shall be given in favour of any one candidate. If any member votes for more candidates than there are vacancies in the group or gives more than one vote in favour of any one candidate, all his votes shall be deemed to be invalid.

(4) The persons getting the highest number of votes shall be declared by the Chairman, at the meeting or as soon thereafter as possible, as duly elected to the Standing Committee. Provided that where an equality of votes is found to exist between any candidate and the addition of one vote will entitle any of the candidates to be declared to be elected the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the Chairman and in such manner as he may determine.

(5) If any question shall arise as to the validity of any election it shall be referred to the Central Government whose decision in the matter shall be final.

4. Restoration to membership.—(1) A member of the Corporation, the Standing Committee or the Medical Benefit Council, who ceases to be a member by virtue of section 12, shall be informed of such cessation by a letter sent to him by registered post within fifteen days from the date of such cessation. The letter shall also indicate that if he desires restoration to membership, he may apply therefor within thirty days from the receipt of the letter.

(2) The application under sub-rule (1) shall indicate the reasons which prevented him from attending three consecutive meetings and shall be addressed to the Chairman concerned.

(3) The application shall be placed before the next meeting of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, and if a majority of the members present at such meeting are satisfied that the reasons for failure to attend three consecutive meetings are adequate, he shall be restored to membership immediately after a resolution to that effect is adopted.

(4) The benefit of restoration to membership as provided for in this rule shall be allowed to a member only once during any one term as a member.

5. Fees and allowances of members—(1) A non-official member of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be residing at the place where a meeting is held shall be allowed the actual expenditure incurred on conveyance subject to a maximum of ten rupees for each day on which he attends one or more meetings

(2) A non-official member not resident at the place where a meeting is held, shall be allowed travelling and daily allowances in respect of the meetings which he attends at the following rates, namely:—

(i) The travelling allowance shall be—

(a) in respect of journeys by air, the actual fare paid and one quarter of the standard air fare for the journey: provided that the Chairman of the Standing Committee is satisfied that journey by air is necessary in public interest. provided further that if the Chairman of the Committee is not so satisfied the journey shall be treated as journey by rail;

(b) in respect of journey by rail, one and a half times the first class railway fare if the journey is performed in that class on payment of full fare and in other cases the actual railway fare, if any, paid and one half of the first class railway fare, from and to the usual place of business or from and to the place from or to which the journey is actually performed by the member, whichever is less; and

(c) in respect of journeys by road performed otherwise than by a means of locomotion provided at the expense of Government or the Corporation at the rate of mileage allowance admissible to officers of the first grade in the service of the Central Government. When the journey is performed by road between places connected by railway, mileage will be limited to what would have been admissible had the member travelled by rail in the ordinary way.

(ii) The daily allowance shall be at the maximum rate admissible to the officers of the first grade in the service of the Central Govern-

ment and shall be payable in respect of each day on which the member attends one or more meetings, provided that the daily allowance shall also be admissible at the full rate for the day immediately preceding the date of commencement of a meeting if the member arrives at the place of the meeting before the afternoon of such preceding day, and also for the day immediately following the last day of the meeting if the member leaves the place of the meeting after the fore-noon of such following day.

NOTES—(1) Travelling or daily allowance shall be allowed if the member certifies that he has not drawn any travelling or daily allowance from any other source in respect of the journey and halt for which the claim is made.

(2) The daily and travelling allowance shall also be payable in respect of any meeting of any sub-committee set up by the Corporation, Standing Committee or Medical Benefit Council.

6. Minimum number of meetings.—(1) The Corporation shall meet at least twice each year.

(2) The Standing Committee and the Medical Benefit Council shall meet at least four times each year.

(3) The Chairman may, whenever he thinks fit, and shall, within fifteen days of the receipt of a requisition in writing from not less than one-half of the members of the body concerned, call a meeting thereof.

(4) Any requisition made under this rule shall specify the object of the meeting proposed to be called.

7. Roll of members.—(1) The Corporation shall maintain a Roll of members separately for the Corporation, the Standing Committee and the Medical Benefit Council. The name and the address of each member shall be stated therein.

(2) If a member changes his address, he shall notify such change by registered post to the Corporation for the correction of his address in the Roll.

8. Notice of meeting and list of business.—(1) The Chairman shall decide the date, time and place of every meeting. A notice of not less than twenty-one days from the date of posting shall ordinarily be given to every member of each meeting of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be. Such notice shall be sent to every member by registered post. A list of business proposed to be transacted, together with brief notes on each item of the agenda, shall, after approval by the Chairman, be posted along with the notice. If it is necessary to

convene an emergency meeting, at least one week's notice thereof shall be given to every member

(2) No business other than that for which a meeting is convened shall be considered at that meeting, except with permission of the Chairman of the meeting

9. Chairman of the meeting.—The Chairman, or in his absence the Vice-Chairman, if any, of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, shall preside at the meetings. In the event of the absence of both the Chairman and the Vice-Chairman, if any, the members present may elect one from amongst themselves to preside

10. Quorum—No business shall be transacted at any meeting unless a quorum of eleven members in the case of the Corporation, five members in the case of the Standing Committee and seven members in the case of the Medical Benefit Council, is present

Provided that if at any meeting there is not a sufficient number of members present to form a quorum, the Chairman of the meeting may adjourn the meeting to a date not later than seven days from the date of the original meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of members attending

11. Disposal of business—Any business which requires consideration by the Corporation, the Standing Committee or the Medical Benefit Council shall be considered at a meeting thereof:

Provided that the Chairmen may, if he thinks fit, direct that the necessary papers may be referred for opinion to all members:

Provided further that the decision on any question which is so referred shall be acted upon only if the members unanimously agree thereto. If there is a difference of opinion, the question shall be considered at a duly convened meeting of the Corporation, the Standing Committee or the Medical Benefit Council as the case may be.

12. Proceedings of the meetings—(1) The proceedings of each meeting showing *inter-alia* the names of the members present thereat shall be forwarded to each member of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, and to the Central Government as soon after the meeting as possible and in any case not less than seven days before the next meeting

(2) The minutes of each meeting shall be confirmed with such modifications as may be considered necessary at the next meeting.

13. Minute Books—(1) The minutes of a meeting of the Corporation, the Standing Committee and the Medical Benefit Council shall be kept in separate books (hereinafter referred to as minute books) and shall be signed by the Chairman of the meeting at which the proceedings are confirmed.

(2) A copy of the minutes so confirmed shall be forwarded to the Central Government within fifteen days from the date of such confirmation.

(3) The minute books shall be kept open at the principal office of the Corporation during office hours on working days for inspection free of charge by any member of the Corporation.

(4) The minute book of the Medical Benefit Council shall be kept open at the principal office of the Corporation during office hours on working days for inspection free of charge by any member of the Medical Benefit Council.

14. Powers and duties of the Medical Benefit Council—The powers and duties of the Medical Benefit Council shall be—

(1) to advise the Corporation in regard to the constitution, setting up, duties and powers of the Regional and Local Medical Benefit Councils,

(2) to make recommendations to the Corporation in regard to—

- (i) the scale and nature of medical benefit provided at hospitals, dispensaries, clinics and other institutions and the nature and the extent of the medicines, staff and equipment which shall be maintained at such institutions,
- (ii) the medical formulary for use in connection with the medical benefit provided under the Act,
- (iii) forms of medical certification, statistical returns, registers and other medical records;
- (iv) measures undertaken for the improvement of the health and welfare of insured persons and the rehabilitation and re-employment of insured persons, disabled or injured.

(3) to advise the Corporation on any matter relating to the professional conduct of any medical practitioner employed for the purpose of providing medical benefit under the Act.

CHAPTER III

15. Salaries, allowances and conditions of service of the Principal Officers—(1) The Principal Officers shall receive such salaries as may be determined by the Central Government.

(2) The Principal Officers shall receive dearness allowance, compensatory (city allowance), house rent and other allowances at such rates as may be sanctioned for the officers of the Central Government on similar salaries in the localities where they are stationed.

(3) The Principal Officers shall be entitled to leave and leave salary under the model leave terms which may from time to time be made applicable to the Central Government servants on contract on similar salaries.

(4) The Principal Officers shall be entitled to travelling allowances for journeys performed in the service of the Corporation on the scale provided for in the rules supplementary to the Fundamental Rules applicable to the class of officers to which the Central Government may declare them to correspond in status.

(5) The Principal Officers shall be entitled to the benefits of the Employees' State Insurance Corporation Provident Fund established under rule 47.

(6) Notwithstanding anything contained in sub-rules (1) to (5), the pay, allowances and other conditions of service of a Principal Officer if he is a person already in the service of the Government shall be such as may be determined by the Central Government in each individual case.

16. Powers and duties of the Director General.—The powers and duties of the Director General shall be—

- (i) to act as the Chief Executive Officer of the Corporation ;
- (ii) to co-ordinate and supervise the work of the other Principal Officers ;
- (iii) to convene, under the orders of the Chairman, meetings of the Corporation, the Standing Committee and the Medical Benefit Council in accordance with the Act and rules and to implement the decisions reached at the meetings ;
- (iv) to enter into contracts on behalf of the Corporation in accordance with the Act or the rules or regulations made thereunder or the general or special instructions of the Corporation or the Standing Committee ;

- (v) to furnish all returns and documents required by the Act or the rules to be furnished to the Central Government and to correspond with the Central Government, the Provincial Governments and the States upon all matters concerning the Corporation ; and
- (vi) to undertake such other duties and to exercise such other powers as may from time to time be entrusted or delegated to him.

17. Powers and duties of the Insurance Commissioner.—The powers and duties of the Insurance Commissioner shall be—

- (i) to assist the Director General ;
- (ii) to arrange, subject to the control of the Director General, for the establishment of Insurance and Regional offices, for the administration of the Act ;
- (iii) to arrange for the inspection of subordinate offices ;
- (iv) to investigate all complaints referred to by Regional Boards and Local Committees ; and
- (v) to undertake such other duties and to exercise such other powers as may from time to time be entrusted or delegated to him.

18. Powers and duties of the Medical Commissioner.—The powers and duties of the Medical Commissioner shall be—

- (i) to supervise, direct and co-ordinate the working of the medical organisation of the Corporation ;
- (ii) to advise the Medical Benefit Council and the Corporation on the standard of medical benefit to be provided under the Act ;
- (iii) to advise the Provincial Governments and employers in regard to the lay-out, planning and construction of hospitals and dispensaries and in regard to sickness recording ;
- (iv) to suggest measures for improving health conditions in areas where the Act is in force ;
- (v) to conduct such research as may be devised by the Medical Benefit Council ;
- (vi) to arrange for the inspection of hospitals, dispensaries, clinics and other institutions where medical benefit under the Act is provided by the Provincial Governments, the Corporation or the employers ;

- (viii) to advise the appropriate Government and the Corporation regarding the adequacy of medical treatment provided by the factories or establishments applying for exemption under section 90,
- (ix) to investigate complaints made by insured persons with regard to medical benefit and to bring to the notice of the Medical Benefit Council such cases as may be required to be investigated by the Council;
- (x) to collect and correlate records of sickness and accident and to devise forms and registers for keeping the records of insured persons by institutions where medical benefit under the Act is provided; and
- (xi) to undertake such other duties and exercise such other powers as may from time to time be entrusted or delegated to him.

19. Powers and duties of the Chief Accounts Officer—The powers and duties of the Chief Accounts Officer shall be—

- (i) to maintain the accounts of the Corporation and to arrange for the compilation of accounts by the collection of returns from the Centres and Regions,
- (ii) to prepare the budget of the Corporation,
- (iii) to arrange for internal audit of the accounts of the Centres and Regions and of the receipts and payments thereat,
- (iv) to make recommendations for the investments of the Corporation; and
- (v) to undertake such other duties and to exercise such other powers as may from time to time be entrusted or delegated to him

20. Powers and duties of the Actuary—The powers and duties of the Actuary shall be—

- (i) to collect, compile and analyse statistics relating to the working of the Corporation;
- (ii) to advise the Director General on all actuarial and statistical problems relating to the working of the Corporation;
- (iii) to assist the Insurance Commissioner in the administration of cash benefits granted under the Act;
- (iv) to detect and prevent excessive claims; and

- (v) to undertake such other duties and exercise such other powers as may from time to time be entrusted or delegated to him.

CHAPTER IV

21. Bank or banks for depositing the Fund.—(1) All moneys accruing or payable to the Fund shall be received by the Chief Accounts Officer or such other officer as the Corporation may authorise in this behalf. The amount so received shall as soon as practicable be acknowledged by a receipt in Form I and deposited in the Imperial Bank of India or such scheduled bank, as may be approved for this purpose by the Central Government, to the account of the Fund.

(2) The receipt book in Form I shall be numbered serially by machine and the unused forms shall be kept in the custody of the Chief Accounts Officer or such other Officer of the Corporation as may be authorised by the Corporation in this behalf.

22. Procedure for crediting moneys to the Banks.—(1) All moneys accruing or payable to the Corporation shall be credited to the approved bank and not utilised directly for any purpose.

(2) The bank or banks shall be required at the end of every calendar month to furnish to the Corporation or such officer as may be authorised by it in this behalf, a statement of the amounts deposited in and withdrawn from the Fund during the month. These statements shall be examined by the Director General by the fifteenth of the following month.

23. Purpose and manner of payment out of the Fund.—(1) The accounts of the Fund shall be operated on by the Chief Accounts Officer or such other officer as may be authorised by the Corporation in this behalf.

(2) No payment shall be made by the bank or banks out of the Fund except on a cheque signed by the Chief Accounts Officer or any other officer authorised by the Corporation.

(3) Any payment in excess of one hundred rupees shall be made by means of a cheque signed as aforesaid and not in any other way.

(4) No payment shall be made out of the Fund unless the expenditure is covered by a current budget grant.

24. Circumstances in which cheques may be drawn.—Before any person authorised under rule 23 signs a cheque, he shall satisfy himself that the sum for which the cheque is drawn is—

- (i) required for a purpose or work specifically sanctioned by the proper authority and covered by a current budget grant ; and
- (ii) required for any payment referred to and specified under section 28

25. Acquisition of property.—Subject to the provisions of rule 29 and such conditions as may, from time to time be laid down by the Corporation, the Director General may, for the purposes of this Act, acquire on behalf of the Corporation movable or immovable property

Provided that sanction of the Standing Committee shall be required for the exchange of any immovable property, for the taking of any property on lease for a term exceeding twelve months, or for the acceptance of any gift or bequest of property burdened by an obligation.

NOTE.—The sanction of the Standing Committee may be given either generally or for any class of cases or specially for any particular case.

26. Disposal of property.—Subject to the provisions of rule 29 and such conditions as may be laid down by the Corporation from time to time, the Director General may—

- (i) dispose of by sale or exchange, any movable property belonging to the Corporation, the value of which does not exceed ten thousand rupees in each case, or grant for any term not exceeding twelve months a lease of any immovable property belonging to the Corporation ;
- (ii) with the sanction of the Standing Committee, lease, sell or otherwise dispose of any movable or immovable property belonging to the Corporation.

NOTE.—The sanction of the Standing Committee may be given either generally or for any class of cases or specially for any particular case

27. Investment, transfer or realisation of the Fund.—(1) All moneys belonging to the Fund which are not immediately required for expenses properly defrayable under the Act, may, subject to the approval of the Standing Committee, be invested by the Director General—

- (i) in Government Securities, or
- (ii) as fixed deposit in the Imperial Bank of India.

(2) Moneys belonging to the Fund shall not be invested in any other manner except with the prior approval of the Central Government.

(3) Any investment made under this rule may, subject to the provisions of sub-rules (1) and (2), be varied, transposed or realised from time to time.

Provided, however, that if such variation, transpositions or realisation is likely to result in a loss, the prior approval of the Central Government shall be obtained.

(4) The Central Government may, at any time, direct the vacation in part or in whole, or prohibit, investment in any security or class of securities or any land or building.

(5) All dividends, interest or other sums received in respect of any investments shall, as soon as possible after receipt, be paid into or credited to the account of the Fund.

(6) The expenses of or the loss, if any, arising from any investment shall be charged to the fund and the profit if any, from the sale of any investment shall also accrue to the Fund.

(7) The approval under sub-rules (1) and (2) of the Standing Committee or the Central Government, as the case may be, may be given with or without any conditions either generally or in any particular case.

28. Raising and repayment of loans.—(1) (i) The Corporation may, in pursuance of a resolution passed at a meeting of the Standing Committee, and with the prior approval of the Central Government raise loans for the purposes of the Act.

(ii) In particular and without prejudice to the generality of the foregoing power, the Corporation may raise loans.—

(a) for the acquisition of land and/or the raising of buildings thereon ; or

(b) to repay a loan raised under this rule ; or

(c) for any other purpose approved by the Central Government.

(2) All loans under this rule shall be obtained—

(i) from the Central Government on such rates of interest and such terms as to the time and method of repayment as the Central Government may specify ; or

(ii) with the approval of the Central Government, from the Reserve or the Imperial Bank of India.

NOTE.—The approval of the Central Government may be given, with or without any conditions, either generally or for any particular case.

(3) Where a loan is obtained from the Reserve or the Imperial Bank of India as provided in clause (u) of sub-rule (2), the Corporation may, with the approval of the Central Government, grant mortgages of all or any of the property vested in it for securing the repayment of the sums so advanced with interest.

(4) All payments due from the Corporation for interest on and repayment of loans shall be made in such manner and at such times as may have been agreed upon.

Provided that the Corporation may apply any sums which can be so applied, in repaying any amount due in respect of the principal of any loan although the repayment of the same may not be due.

(5) No expenditure incurred out of a loan shall be charged by the Corporation to capital, except with the previous sanction (or under the direction) of the Central Government.

(6) The Corporation shall submit to the Central Government an annual statement by the thirty-first of January each year showing the loans raised and repayments made during the preceding year.

29. Procedure for execution of contracts.—(1) The Corporation may enter into and perform all such contracts as it may consider necessary or expedient for carrying into effect the provisions of the Act.

(2) Every contract made under or for any purpose of the Act shall be made on behalf of the Corporation—

- (i) by the Director General ; or
- (ii) subject to such conditions as it may specify, by such member or officer of the Corporation as it may authorise

Provided that the prior sanction of the Standing Committee shall be obtained in respect of any contract involving an expenditure exceeding ten thousand discharged.

(3) Every contract entered into by any person as provided in sub-rule (2) shall be entered into in such manner and form as would bind him if it were made on his own behalf and may in like manner and form be varied or discharged :

Provided that the common or official seal, as the case may be, of the Corporation shall be affixed to every contract.

30. Seal.—(1) The common seal of the Corporation shall remain in the custody of the Director General and shall not be affixed to any instrument except in the presence of the Director General or two members of the Standing Committee, and the Director General or

the said two members shall sign the contract in token of the fact that the same was sealed in his or their presence.

(2) The Corporation shall have for use at each of such other of its offices as it may specify, an official seal which shall be a *facsimile* of the common seal of the Corporation with the addition of the name of the office where it is to be used.

(3) The official seal shall not be affixed to any instrument except in the presence of such person or persons as the Standing Committee may authorise in this behalf and such person or persons shall sign the instrument in token of the fact that the same was sealed in his or their presence.

(4) An instrument to which an official seal is duly affixed shall bind the Corporation as if it had been sealed with the common seal of the Corporation.

CHAPTER V

31. *Preparation and submission of annual budget estimates.—*

(1) The budget estimates of the Corporation for each financial year beginning on the first of April and ending on the thirty-first of March next shall be prepared by the Chief Accounts Officer in such form as the Central Government may, from time to time, direct and shall be submitted with his recommendations by the Director General to the Standing Committee for approval at a meeting of the Standing Committee to be held before the first of September of the preceding year.

(2) A copy of the budget estimates shall be sent to each member of the Standing Committee and of the Corporation by registered post at least ten clear days before the meeting of the Standing Committee or the Corporation at which these estimates are to be considered.

(3) The Standing Committee shall consider and approve the budget estimates with such changes as it may consider necessary.

(4) The budget estimates as approved by the Standing Committee shall be placed before a meeting of the Corporation to be held before the fifteenth of October of the preceding year.

(5) The budget estimates as passed by the Corporation shall be authenticated by affixing the common seal of the Corporation and shall be submitted to the Central Government under section 32, not later than the first of November next following.

(6) It shall be open to the Central Government to make such alterations in the budget estimates as may be considered necessary before according approval.

(7) The budget estimates as finally adopted by the Corporation and as approved by the Central Government shall be placed before the Central Legislature by the administrative Ministry concerned and published in the official Gazette as soon as possible after the Central Government budget estimates have been approved by the Legislature.

32. *Supplementary estimate.*—The Standing Committee may cause a supplementary estimate to be prepared and submitted to the Corporation, if in respect of any financial year further expenditure is likely to be incurred. Every such supplementary estimate shall be considered and sanctioned by the Corporation and submitted to the Central Government in the same manner as if it were an original annual estimate, not later than the fifteenth of February of the financial year to which it relates. The provision of rule 31 shall so far as may be, apply to such supplementary estimate.

33. *Reappropriation.*—(1) If the Director General finds in the course of the year that there is likely to be an excess of expenditure over the sanctioned budget estimate under any head, he shall examine the allotment under each head of the budget estimate with the object of discovering probable savings under any other head and effecting a reappropriation. Where such reappropriation is feasible he may sanction the reappropriation subject to such conditions as may be laid down by the Central Government from time to time.

(2) Funds shall not be reappropriated to meet expenditure on a new service not contemplated in the budget estimates except with the prior approval of the Central Government.

(3) No reappropriation shall be permitted between the grant sanctioned for administrative expenses, two thirds of which shall be met by the Central Government, and a grant sanctioned for any other expenditure.

34. *Maintenance of accounts*—The Corporation shall maintain complete and accurate accounts in such form as the Standing Committee may, with the approval of the Central Government, specify from time to time. The books shall be balanced on the thirty-first of March each year.

35. *Revenue Accounts.*—The Corporation shall prepare Revenue Accounts for the financial year ended on the thirty-first March

and Balance Sheet as on the thirty-first March, by the fifteenth of May :

Provided that the Corporation may, and if so required by the Central Government shall, cause to be prepared the Revenue Accounts and the Balance Sheet for any other period or as on any other date.

36. *Appointment of auditors.*—The Central Government shall, as soon after the close of each financial year as possible and in any case not later than the thirtieth of April next, appoint auditors to audit the accounts for the financial year then ended and shall notify their appointment to the Corporation and in the official Gazette.

37. *Production of accounts before the auditors.*—The annual accounts shall be set out and produced before the auditors for scrutiny on or before the thirty-first of May each year following the close of the financial year to which they relate.

38. *Power of auditors.*—The Corporation shall submit all accounts to the auditors as required by them. The auditors may—

- (i) by written notice, require the production before them or before any officer subordinate to them, of any document which they may consider necessary for the proper conduct of their audit ;
- (ii) by written notice, require any person accountable for, or having the custody or control of, any such document, to appear in person before them or before any officer subordinate to them ; and
- (iii) require any person so appearing before them or before any officer subordinate to them to make and sign a declaration with respect to such document or to answer any question or prepare and submit any statement.

39. *Report of auditors.*—The auditors shall report on the annual accounts to the Corporation on such date and in such form as the Central Government may specify in this behalf and they shall state whether in their opinion the Balance Sheet is a full and fair Balance Sheet containing all necessary particulars and properly drawn up so as to exhibit a true and correct view of the state of the Corporation's affairs and in case they have called for any explanation or information from the Corporation or any of its officers whether it has been given and whether it is satisfactory.

40. *Consideration of report of auditors.*—The annual accounts together with the auditor's report thereon shall be considered by the

Standing Committee and shall, together with an annual report on the work and activities of the Corporation, be placed for adoption at a meeting of the Corporation to be held before the fifteenth of October following the close of the financial year concerned

41. Authentication of annual accounts and reports.—The annual accounts and reports as adopted by the Corporation shall be authenticated by affixing the common seal of the Corporation and four copies thereof shall be submitted to the Central Government not later than the first of November next following.

42. Cost of audit.—The cost of audit shall be paid by the Corporation by such date as may be specified by the Central Government.

43. Publication of accounts—The Corporation shall publish the annual accounts and the auditors' report thereon together with replies to each item included in the report within three months of their submission to the Central Government.

44. Impropriety or irregularity in accounts.—(1) The auditors shall submit to the Corporation and the Central Government a separate statement, if necessary, in regard to—

(i) any material impropriety or irregularity which they may observe in the expenditure, or in the recovery of moneys due to, or in the accounts of the Corporation ;
or

(ii) any loss or waste of money or other property owned by or vested in the Corporation which has been caused by neglect or misconduct, with the names of the persons who in their opinion are directly or indirectly responsible for such loss or waste.

(2) The Standing Committee shall forthwith remedy any defect or irregularity that may be pointed out by the auditors and shall report to the Central Government the action taken by it thereon within three months of the receipt of the report of the auditors.

Provided that if there is a difference of opinion between the Standing Committee and the auditors, or if the Standing Committee does not remedy any defect or irregularity within a reasonable period, the Central Government may, and on a reference specifically made therefor shall, pass such orders thereon as they think fit and the

Standing Committee shall thereafter take action in accordance therewith within such time as may be specified by the Central Government.

45. Disallowance of expenditure incurred and surcharge for loss or deficiency—(1) The auditors, after giving the person concerned an opportunity to submit an explanation, and after considering any such explanation, shall disallow any item of account contrary to the provisions of the Act or of the rules or regulations made thereunder, and surcharge the same on the person making or authorising the making of payment of such account and shall charge against any person accounting, the amount of any deficiency or loss incurred by the negligence or misconduct of that person, or of any sum which ought to have been but is not brought into account by that person, and shall in every such case certify the amount due from such person.

(2) The auditors shall state in writing their reasons for every disallowance, surcharge or charge made by them and shall serve a certificate of the amount due and a copy of the reasons for their decision on the person against whom the certificate is made and shall also furnish copies thereof to the Corporation and to the Central Government.

(3) The Central Government may on their own motion, or on a reference by the Corporation or on application of the aggrieved party made within three months after he has been served with a certificate, pass such orders as they think fit, and the Corporation shall thereafter take action in accordance therewith within such time as may be specified by the Central Government in any case.

46. Recovery of amounts certified to be due.—(1) Every sum certified to be due from any person by the auditors, or if the certificate has been modified by the Central Government the sum shown to be due from such person in the modified certificate, shall be paid by such person to the Corporation within three months after he has been served with the certificate of the auditors or within such longer period as may be allowed by the Central Government; any such sum, if not so paid, shall be recovered as if it were an arrear of land revenue.

(2) Any sum or part of a sum so paid or recovered, the certificate in respect of which is set aside or modified, shall, as the case may require, be wholly or partly refunded to the person who paid it.

CHAPTER VI

47. Establishment of Provident Fund—The Corporation shall establish, maintain and contribute to a Provident Fund called the Employees' State Insurance Corporation Provident Fund (hereinafter referred to as the Provident Fund) in respect of its employees other than those whose services are placed at the disposal of the Corporation by the Central or Provincial Government.

48. Administration of the Provident Fund—The Provident Fund shall be administered by the Standing Committee of the Corporation.

49. Framing of Provident Fund Regulations—The Corporation may, subject to the previous approval of the Central Government, make regulations to provide for all other matters incidental to or necessary for the Provident Fund

FORM I

(See Rule 21)

Book Number	Receipt Number	Book Number.	Receipt Number.
Received from ..		Received from	
. . . the sum of Rs		. . . the sum of Rs . . .	
(in words) . . .	on	(in words) . . .	on
account of . . .	.	account of . . .	.. ..
Rs .		Rs	
Chief Accounts Officer		Chief Accounts Officer,	
Entered in Cash Book Page No .		The Employees' State Insurance	
Accountant		Corporation.	

CHILD LABOUR LEGISLATION

Employment of Children.

Employment of Children Act, 1938 (XXVI of 1938).

The Royal Commission on Labour has drawn attention to the serious abuses in connection with the employment of children in workshops to which the Factories Act did not apply. The object of the Employment of Children Act 1938 (XXVI of 1938) was designed solely to fight the evil of child labour in workshops. The Act raises the minimum age of children employed in the handling of goods on railways and at ports, to 15 years. The Act prohibits the employment of children under the age of 15 years in occupations connected with the transport of passengers, goods or mails, by a railway and in occupations involving the handling of goods within the limits of ports. The infringement is punishable by a fine which may extend to Rs. 500. Although the International Labour Conference accepted Revised Convention concerning Minimum Age (Industry) in 1937, fixing 13 years in the case of India as the minimum age for employment of children in the transport of passengers, goods or mails by rail and the handling of goods at docks, the Act fixed the minimum age of children at 15 years.

Employment of Children (Amendment) Act, 1939 (XV of 1939).

The Act was amended in 1939 with a view to raise the minimum age of children employed in the occupations mentioned in the Schedule to 12 years. The amended Act prescribes that in addition to the provisions of 1938 Act, no child who has not completed his 12th year, shall be employed in any of the scheduled occupations, viz., bidi-making; carpet-weaving; cement manufacture; cloth printing, dyeing and weaving; manufacture of matches, explosives and fireworks; mica cutting and splitting; shellac manufacture; soap manufacture; tanning and wool cleaning.

Special provisions regarding employment of children have been made in the (1) Indian Mines Act, 1923 (IV of 1923), (2) Indian Merchant Shipping Act, 1923 (VIII of 1923), (3) Indian Ports Act, 1908 (XV of 1908), and (4) the Factories Act, 1948 (LXIII of 1948).¹

¹ Factory Legislation, Employment of Young Persons, p. 16, ante.

Factories Act, 1948 (LXIII of 1948)

The minimum age of 12 years under the amended Act of 1939 was raised to 14 years for admission of children for employment in workshops engaged in the processes mentioned in the Schedule, under an amendment by the Factories Act, 1948.

Steps by Provincial Governments.

The Act empowers the Provincial Governments to add any description of the processes to the Schedule after giving due notice in the official Gazette. The Government of Madras by a notification dated the 19th September, 1948, has prohibited the employment of children as cleaners in workshops attached to motor transport companies. The Government of the United Provinces has added the brassware and glass bangle industries to the Schedule by a notification published in the U. P. Government Gazette dated the 4th September, 1948.

Administration.

The Act is administered by the Chief Inspector of Factories in the Province. The Chief Labour Commissioner, Central, administers the Act in connection with the employment of children in Central undertakings and the Chief Labour Commissioner, the Regional Labour Commissioners and Labour Inspectors have been authorised by the Central Government to act as Inspectors in respect of Federal Railways. The Labour Inspector appointed by the Central Government is administering the Act in regard to the port areas with the Dominion of India.

Pledging of Child Labour.

Service labour was not confined to adults alone and parents or guardians used to secure loans or advances on pledging the labour of their children. The Royal Commission on Labour found evidence of such practices in several industrial centres. The Commission condemned the system of mortgaging the labour of children and recommended the expediency of penalising the giving of advances to secure the labour of children and the execution of bond pledging the labour of persons under 15 years on account of consideration to be void.

The Children (Pledging of Labour) Act 1933 (II of 1933) lays down that any agreement to pledge the labour of a child below

15 years, oral or written, expressed or implied, by the parent, in return for any payment or benefit will be null and void. A parent who knowingly pledges the labour of his child is liable to be fined up to Rs. 50. A person who knowingly enters into agreement with a parent or an employer who knowingly employs a child, may be fined up to Rs. 200.

EMPLOYMENT OF CHILDREN ACT, 1938 (XXVI OF 1938)

Arrangement of Sections

1. Short title and extent
2. Definitions
3. Prohibition of employment of children in certain occupations.
- 3A. Power to amend the Schedule.
- 3B. Notice to Inspector before carrying on work in certain processes.
- 3C. Disputes as to age
4. Penalty
5. Procedure relating to offences
6. Appointment of Inspectors
7. Power to make rules
8. Amendment of Section 6, Act XV of 1908

EMPLOYMENT OF CHILDREN ACT, 1938 (XXVI OF 1938)

An Act to regulate the admission of children to certain industrial employments

Whereas it is expedient to regulate the admission of children to certain industrial employment ;

It is hereby enacted as follows :—

1. Short title and extent.—(1) This may be called the Employment of Children Act, 1938

(2) It extends to [all the Provinces of India]

2. Definitions.—In this Act—

- (a) “competent authority”, in respect of a major port, as defined in the Indian Ports Act, 1908 (XV of 1908) and in respect of a federal railway, as defined in the Indian

¹ These words were substituted for the words “the whole of British India” by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

Railways Act, 1890 (IX of 1890), means the Central Government, and in any other case means the Provincial Government ;

¹[(b) "occupier" of a workshop means the person who has ultimate control over the affairs of the workshop ;

(c) "prescribed" means prescribed by rules made under this Act ;

(d) "workshop" means any premises (including the precincts thereof) wherein any industrial process is carried on, but does not include any premises to which the provisions of section 50 of the Factories Act, 1934, for the time being apply.]

3. Prohibition of employment of children in certain occupations.—(1) No child who has not completed his fifteenth year shall be employed or permitted to work in any occupation connected with the transport of passengers, goods or mails by railway.

(2) No child who has not completed his fifteenth year shall be employed or permitted to work in any occupation involving the handling of goods within the limits of any port to which for the time being any of the provisions of the Indian Ports Act, 1908 (XV of 1908), are applicable.

²[(3) No child who has not completed his ³[fourteenth] year shall be employed, or permitted to work, in any workshop wherein any of the processes set forth in the Schedule is carried on :

Provided that nothing in this sub-section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family only and without employing hired labour or to any school established by, or receiving assistance or recognition from, a Provincial Government.]

⁴[**3A. Power to amend the Schedule.**—The Provincial Government, after giving, by notification in the official Gazette, not less than three months' notice of its intention so to do, may, by like notification, add any description of process to the Schedule, and

¹ Clauses (b) to (d) were inserted by Section 2 of the Employment of Children (Amendment) Act 1939 (XV of 1939)

² Sub-section (3) was added by Section 3 of the Employment of Children (Amendment) Act, 1939 (XV of 1939)

³ This word was substituted for the word "twelfth" by Section 119 of the Factories Act, 1948 (LXIII of 1948)

⁴ Sections 3A, 3B and 3C were added by the Employment of Children (Amendment) Act, 1939 (XV of 1939).

thereupon the Schedule shall have force in the Province as if it has been enacted accordingly.

3B. Notice to Inspector before carrying on work in certain processes.—Before work in any of the processes set forth in the Schedule is carried on in any workshop after the 1st day of October, 1939, the occupier shall send to the Inspector, within whose local limits the workshop is situated, a written notice containing—

- (a) the name and situation of the workshop,
- (b) the name of the person in actual management of the workshop,
- (c) the address to which communications relating to the workshop should be sent, and
- (d) the nature of the processes to be carried on in the workshop

3C. Disputes as to age.—If any question arises between an Inspector and an employer ¹[as to the age of any child who is employed or permitted to work by the employer], the question shall, in the absence of a certificate as to the age of such child, granted by a prescribed medical authority, be referred by the Inspector for decision to the prescribed medical authority.]

4. Penalty.—Whoever employs any child or permits any child to work in contravention of the provisions of section 3 ²[or fails to give notice as required by section 3B] shall be punishable with fine which may extend to five hundred rupees.

5. Procedure relating to offences.—(1) No prosecution under this Act shall be instituted except by or with the previous sanction of an Inspector appointed under section 6.

³[(2) Every certificate as to the age of a child which has been granted by a prescribed medical authority shall, for the purposes of this Act, be conclusive evidence as to the age of the child to whom it relates.]

(3) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

¹These words were substituted for the words "as to whether any child has or has not completed his twelfth or fifteenth year, as the case may be" by the Repealing and Amending Act, 1939 (XL of 1939).

²These words were inserted by section 5 of the Employment of Children (Amendment) Act, 1939 (XV of 1939).

³Sub-section (2) was inserted by section 6, *ibid.*

6. Appointment of Inspectors.—The competent authority may appoint persons to be Inspectors for the purpose of securing compliance with the provisions of this Act, and any Inspector so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860).

7. Power to make rules.—(1) The competent authority may by notification in official Gazette and subject to the condition of previous publication make rules for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) regulate the procedure of Inspectors appointed under section 6, and

(b) make provision for the grant of certificates of age in respect of young persons in employment or seeking employment, the ¹[medical] authorities which may issue such certificates, the form of such certificate, the charges which may be made therefor, and the manner in which such certificates may be issued:

Provided that no charge shall be made for the issue of any such certificate if the application is accompanied by evidence of age deemed satisfactory by the authority concerned

8. Amendment of Section 6, Act XV of 1908.—Sub-section (1) (a) of section 6 of the Indian Ports Act, 1908 (XV of 1908), and the words, brackets, figure and letter “and sub-section (1) (a)” in sub-section (2) of the said section shall be omitted

²[THE SCHEDULE

(See Section 3, 3A and 3B :

List of Processes.

(1) Bidī-making ; (2) Carpet-weaving ; (3) Cement manufacture, including bagging of cement ; (4) Cloth printing, dyeing and weaving ; (5) Manufacture of matches, explosives and fire works ; (6) Mica-cutting and splitting ; (7) Shellac manufacture ; (8) Soap manufacture ; (9) Tanning and (10) Wool cleaning.]

¹ This word was inserted by Section 7 of the Employment of Children (Amendment) Act, 1939 (XV of 1939)

² The Schedule was inserted by Section 8, *ibid*

EMPLOYMENT OF CHILDREN (FEDERAL RAILWAY)
RULES, 1940.¹

In exercise of the powers conferred by section 7 of the Employment of Children Act, 1938, (XXVI of 1938), the Central Government is pleased to make the following rules, the same having been previously published as required by sub-section (1) of the said section, namely —

EMPLOYMENT OF CHILDREN (FEDERAL RAILWAY) RULES, 1940

(1) These rules may be called the Employment of Children (Federal Railway) Rules, 1940.

(2) In these rules "the Act" means the Employment of Children Act, 1938, (XXVI of 1938)

(3) An Inspector appointed by the Central Government may enter any place where persons are employed in any occupation connected with the transport of passenger, goods or mails on a federal railway, and may take on the spot, or otherwise such evidence of any persons and exercise such other powers of inspection as he may deem necessary for carrying out the purposes of the Act

(4) Any medical practitioner registered under the Medical Act, 1858, or under any Act of any legislature in ²[the Provinces] providing for the maintenance of a Register of medical practitioners, may grant certificate of age in respect of young persons in employment or seeking employment in federal railways.

(5) A certificate of age granted under rule 4 shall be in the Form appended to these rules.

FORM OF CERTIFICATE
(RULE 5)

Date, ..

I hereby certify that I have personally examined (Name)
.son of
caste, etc.residing at
and that he has completed his fifteenth year
His descriptive marks are.. . . .
Thumb impression.....

Medical Practitioner

¹ These Rules were published in the Gazette of India under Notification No. L-3090, dated the 8th February, 1940.

³These words were substituted for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

EMPLOYMENT OF CHILDREN (MAJOR PORTS) RULES, 1940.¹

In exercise of the powers conferred by Section 7 of the Employment of Children Act, 1938 (XXVI of 1938), the Central Government is pleased to make the following rules, the same having been previously published as required by Sub-section (1) of the said Section, namely —

EMPLOYMENT OF CHILDREN (MAJOR PORTS) RULES, 1940

(1) These rules may be called the Employment of Children (Major Ports) Rules, 1940.

(2) In these rules, "the Act" means the Employment of Children Act, 1938 (XXVI of 1938).

(3) An Inspector appointed by the Central Government may enter any place where persons are employed in any occupation connected with the transport of passengers or goods within the limits of a major port and may take on the spot or otherwise such evidence of any persons, and exercise such other powers of inspection, as he may deem necessary for carrying out the purposes of the Act

(4) A Port Health Officer or Assistant Port Health Officer may grant certificates of age free of charge in respect of young persons in employment or seeking employment in major ports

(5) A certificate of age granted under rule 4 shall be in the Form appended to these rules

FORM OF CERTIFICATE (RULE 5)

Date.. . . .

I hereby certify that I have personally examined (Name)
 son of
 (caste, etc)
 residing at. and that he has
 completed his fifteenth year His descriptive marks are

 Thumb-impression.

Port Health Officer
 Assistant Port Health Officer.

¹ These Rules were published in the Gazette of India under Notification No L-3090, dated the 26th November, 1940

CHILDREN (PLEDGING OF LABOUR) ACT, 1933. (II OF 1933).

Arrangement of Sections

- 1 Short title, extent and commencement
2. Definitions
3. Agreements contrary to the Act to be void
4. Penalty for parent or guardian making agreement to to pledge the labour of a child
5. Penalty for making with a parent or guardian an agreement to pledge the labour of a child.
6. Penalty for employing a child whose labour has been pledged

CHILDREN (PLEDGING OF LABOUR) ACT, 1933 (II OF 1933)

An Act to prohibit the pledging of the labour of children.

Whereas it is expedient to prohibit the making of agreements to pledge the labour of children, and the employment of children whose labour has been pledged ; It is hereby enacted as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Children (Pledging of Labour) Act, 1933.

(2) It extends to ¹[all the Provinces of India] ² including the Sonthal Parganas.

(3) This section and sections 2 and 3 shall come into force at once, and the remaining sections of this Act shall come into force on the first day of July, 1933.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

“an agreement to pledge the labour of a child” means an agreement, written or oral, express or implied, whereby the parent or guardian of a child, in return for any payment or benefit received or to be received by him, undertakes to cause or allow the services of the child to be utilised in any employment

¹ These words were substituted for the words “the whole of British India” by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948

² The words “British Beluchistan” was repealed, *ibid*.

Provided that an agreement made without detriment to a child, and not made in consideration of any benefit other than reasonable wages to be paid for the child's services, and terminable at not more than a week's notice, is not an agreement within the meaning of this definition ,

"child" means a person who is under the age of fifteen years ;
and

"guardian" includes any person having legal custody of or control over a child.

3. Agreements contrary to the Act to be void.—An agreement to pledge the labour of a child shall be void.

4. Penalty for parent or guardian making agreement to pledge the labour of a child.—Whoever, being the parent or guardian of a child, makes an agreement to pledge the labour of that child, shall be punished with fine which may extend to fifty rupees.

5. Penalty for making with a parent or guardian an agreement to pledge the labour of a child.—Whoever makes with the parent or guardian of a child an agreement whereby such parent or guardian pledges the labour of the child shall be punished with fine which may extend to two hundred rupees.

6. Penalty for employing a child whose labour has been pledged.—Whoever, knowing or having reason to believe that an agreement has been made to pledge the labour of a child, in furtherance of such agreement employs such child, or permits such child to be employed in any premises or place under his control, shall be punished with fine which may extend to two hundred rupees.

INDUSTRIAL EMPLOYMENT LEGISLATION

Standing Orders in Industrial Establishments.

Standing Orders defining the conditions of service, viz., recruitment, discharge, disciplinary action, holidays, leave etc., tend to minimise friction between the workers and their employers in industrial undertakings. The Tripartite Labour Conference discussed about the matter in 1943, 1944 and 1945 and decided in favour of such legislation. A Bill providing for framing of "Standing Orders" defining conditions of employment in all industrial establishments employing one hundred or more workers was introduced by the Government of India in the Legislative Assembly on 8th April 1946. The Industrial Employment (Standing Orders) Act 1946 (XX of 1946) came into force on 23rd April 1946 and applied to a wide range of industrial enterprises, including factories, railways, mills, quarries or oil fields, plantations, workshops, inland steamer vessels, docks, wharves or jetties, and tramways or motor omnibus services, where one hundred or more workers were employed in any day of the twelve months preceding 23rd April, 1946.

Main Provisions.

The main provision of the Act was to require employers of industrial establishments to frame draft "Standing Orders" relating to the terms of service governing the employment of the workers and submit them to the "Certifying Officer" for certification, within six months from the date on which the Act became applicable. The Certifying Officer was empowered to modify or add to the draft Standing Orders and there was a right of appeal against his decisions. The Act does not apply to those industries to which the provisions of Chapter V of the Bombay Industrial Disputes Act, 1938 (Standing Orders regarding industries) applied before the passing of the Act. The Act requires the display of the Standing Orders in English and in the language of the majority of the workers near the entrance to the factory and in the departments.

The Central Government and the Provincial Governments are empowered to extend the scope of the Act to any other class of industrial employment or exempt it from all or any of the provisions.

Administration of the Act.

The Act is administered in the case of Federal railways, major ports, mines, oilfields by the Central Government and in all other concerns by the Provincial Governments concerned. Under the Act, the Central Government published Rules containing Model Standing Orders and they will extend to all Chief Commissioners' Provinces as well as industrial establishments under the control of the Central Government. The proper enforcement of the Act will secure for the workers a clear definition of their terms of service on many points now left vague. The Provincial Governments have appointed Certifying Officers and Appellate Authorities for the purposes of the Act.

The Government of India have published the Industrial Employment (Standing Orders) Central Rules, 1946 in exercise of the powers conferred under the Act. These Rules extend to all Chief Commissioners' Provinces and also apply to industrial establishments under the control of the Central Government, Federal Railways, major ports, mines and oil fields throughout India.

Industrial Employment (Standing) Orders Rules, framed under the Act by the Provincial Governments have since been finalised and published in the Provincial Gazettes—Assam in April 1947, Bengal in October 1946, Bihar in November 1947, Bombay in November 1948, the Central Provinces and Berar in November 1947, Madras in November 1947, Orissa in July 1947 and the United Provinces in December 1946.

Five-year Labour Programme.

The Five-year Programme of the Government of India, Department of Labour, aims at evolving, in discussion with employers and workers general terms of service which should be incorporated in the Standing Orders and also including in the Schedule of the Act provisions for maintenance of service or registration cards and the framing of rules for promotions

Uniform Conditions of Service.

The report submitted by the Labour Department to the eighth session of the Indian Labour Conference held on 21st April 1947 stated that steps were taken by the Government to safeguard for labour fair terms of service, particularly in regard to security of

tenure, elimination of unjust reductions and discharge from service. The Chief Labour Commissioner (Central) was entrusted with the work of gathering materials relating to the terms of service formulated under the Act which it was proposed to be examined before evolving standardized terms of service suitable for particular industries. The ultimate aim is to achieve as far as possible uniform conditions of service for workers.

INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946 (XX OF 1946)

Arrangement of Sections

1. Short title, extent and application
 2. Interpretation
 3. Submission of draft Standing Orders
 4. Conditions for certification of Standing Orders
 5. Certification of Standing Orders.
 6. Appeals.
 7. Date of operation of Standing Orders.
 8. Register of Standing Orders.
 9. Posting of Standing Orders
 10. Duration and modification of Standing Orders.
 11. Certifying Officers and Appellate Authorities to have powers of Civil Court.
 12. Oral evidence in contradiction of Standing Orders not admissible
 13. Penalties and procedure
 14. Power to exempt.
 15. Power to make rules
- Schedule

INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946 (XX OF 1946)¹

An Act to require employers in industrial establishments formally to define conditions of employment under them.

Whereas it is expedient to require employers in industrial establishments to define with sufficient precision the conditions of

¹ For Statement of Objects and Reasons, see the Gazette of India, Part V dated the 13th April, 1946.

employment under them and to make the said conditions known to workmen employed by them ;

It is hereby enacted as follows :—

1. Short title, extent and application. —(1) This Act may be called the Industrial Employment (Standing Orders) Act, 1946

(2) It extends to '[all the Provinces of India]

(3) It applies to every industrial establishment wherein one hundred or more workmen are employed, or were employed on any day of the preceding twelve months, and to such class or classes of other industrial establishments as the appropriate Government may from time to time, by notification in the official Gazette, specify in this behalf.

Provided that nothing in this Act shall apply to any industry to which, before the commencement of this Act, the provisions of Chapter V of the Bombay Industrial Disputes Act, 1938 (Bombay Act XXV of 1938), have been applied.

2. Interpretation. —In this Act, unless there is anything repugnant in the subject or context.

(a) "appellate authority" means an Industrial Court, wherever it exists or in its absence an authority appointed by the appropriate Government by notification in the official Gazette to exercise in such area as may be specified in the notification the functions of an appellate authority under this Act.

(b) "appropriate Government" means in respect of industrial establishments under the control of the Central Government or a Federal railway or in a major port, mine or oil-field, the Central Government, and in all other cases, the Provincial Government ;

(c) "Certifying Officer" means the Labour Commissioner wherever he exists, or in his absence an officer appointed by the appropriate Government by notification in the official Gazette to exercise in such area as may be specified in the notification the functions of a Certifying Officer under this Act ;

(d) "employer" means the owner of an industrial establishment to which this Act for the time being applies, and includes—

(i) in a factory, any person named under clause (e) of sub-section (1) of section 9 of the Factories Act, 1934 (XXV of 1934), as manager of the factory ;

¹ These words were substituted for the words, "the whole of British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948

- (ii) in any industrial establishment under the control of any department of any Government in India, the authority appointed by such Government in this behalf or where no authority is so appointed, the head of the department,
- (iii) in any other industrial establishment, any person responsible to the owner for the supervision and control of the industrial establishment,
- (e) "industrial establishment" means—
 - (i) an industrial establishment as defined in clause (ii) of section 2 of the Payment of Wages Act, 1936 (IV of 1936), or
 - (ii) a factory as defined in clause (ii) of section 2 of the Factories Act, 1934, or
 - (iii) a railway as defined in clause (4) of section 2 of the Indian Railways Act, 1890 (IX of 1890), or
 - (iv) the establishment of a person who, for the purpose of fulfilling a contract with the owner of any industrial establishment, employs workmen;
- (f) "prescribed" means prescribed by rules made by the appropriate Government under this Act,
- (g) "standing orders" means rules relating to matters set out in the Schedule;
- (h) "trade union" means a trade union for the time being registered under the Indian Trade Unions Act, 1926 (XVI of 1926),
- (i) "workman" means any person employed in any industrial establishment to do any skilled or unskilled, manual or clerical, labour for hire or reward, but does not include any member of the armed forces of the Crown

3. Submission of draft standing orders.—(1) Within six months from the date on which this Act becomes applicable to an industrial establishment, the employer shall submit to the Certifying Officer five copies of the draft standing orders proposed by him for adoption in his industrial establishment.

(2) Provision shall be made in such draft for every matter set out in the Schedule which may be applicable to the industrial establishment, and where model standing orders have been prescribed, shall be, so far as is practicable, in conformity with such model.

(3) The draft standing orders submitted under this section shall be accompanied by a statement giving prescribed particulars of the workmen employed in the industrial establishment including the name of the trade union, if any, to which they belong.

(4) Subject to such conditions as may be prescribed, a group of employers in similar industrial establishments may submit a joint draft of standing orders under this section.

4. Conditions for certification of standing orders.—Standing orders shall be certifiable under this Act if—

(a) provision is made therein for every matter set out in the Schedule which is applicable to the industrial establishment, and

(b) the standing orders are otherwise in conformity with the provision of this Act ;

and it shall not be the function of the Certifying Officer or appellate authority to adjudicate upon the fairness or reasonableness of the provisions of any standing orders

5. Certification of standing orders.—(1) On receipt of the draft under section 3, the Certifying Officer shall forward a copy thereof to the trade union, if any, of the workmen, or where there is no such trade union, to the workmen in such manner as may be prescribed, together with a notice in the prescribed form requiring objections, if any, which the workmen may desire to make to the draft standing orders to be submitted to him within fifteen days from the receipt of the notice.

(2) After giving the employer and the trade union or such other representatives of the workmen as may be prescribed an opportunity of being heard, the Certifying Officer shall decide whether or not any modification of or addition to the draft submitted by the employer is necessary to render the draft standing orders certifiable under this Act, and shall make an order in writing accordingly

(3) The Certifying Officer shall thereupon certify the draft standing orders, after making any modifications therein which his order under sub-section (3) may require, and shall within seven days thereafter send copies of the certified standing orders authenticated in the prescribed manner and of his order under sub-section (2) to the employer and to the trade union or other prescribed representatives of the workmen.

6. Appeals.—(1) Any person aggrieved by the order of the Certifying Officer under sub-section (2) of section 5 may, within twenty-one days from the date on which copies are sent under sub-section (3) of that section, appeal to the appellate authority, and the appellate authority, whose decision shall be final, shall by order in writing confirm the standing orders either in the form certified by the Certifying Officer or after amending the said standing orders by making such modifications thereof or additions thereto as it thinks necessary to render the standing orders certifiable under this Act.

(2) The appellate authority shall, within seven days of its order under sub-section (1), send copies thereof of the Certifying Officer, to the employer and to the trade union or other prescribed representatives of the workmen, accompanied, unless it has confirmed without amendment the standing orders as certified by the Certifying Officer, by copies of the standing orders as certified by it and authenticated in the prescribed manner

7. Date of operation of standing orders.—Standing orders shall, unless an appeal is preferred under section 6, come into operation on the expiry of thirty days from the date on which authenticated copies thereof are sent under sub-section (3) of section 5, or where an appeal as aforesaid is preferred, on the expiry of seven days from the date on which copies of the order of the appellate authority are sent under sub-section (2) of section 6.

8. Register of standing orders.—A copy of all standing orders as finally certified under this Act shall be filed by the Certifying Officer in a register in the prescribed form maintained for the purpose, and the Certifying Officer shall furnish a copy thereof to any person applying therefor on payment of the prescribed fee

9. Posting of standing orders.—The text of the standing orders as finally certified under this Act shall be prominently posted by the employer in English and in the language understood by the majority of his workmen on special boards to be maintained for the purpose at or near the entrance through which the majority of the workmen enter the industrial establishment and in all departments thereof where the workmen are employed

10. Duration and modification of standing orders.—(1) Standing orders finally certified under this Act shall not, except on agreement between the employer and the workmen, be liable to modification until the expiry of six months from the date on

which the standing orders or the last modifications thereof came into operation.

(2) An employer desiring to modify his standing orders shall apply to the Certifying Officer in that behalf, submitting five copies of the standing orders in which shall be indicated the modifications he proposes, and where such modifications are made in agreement with the workmen, a certified copy of the agreement shall accompany the application.

(3) The foregoing provisions of this Act shall apply in respect of an application under sub-section (2) as they apply to the certification of the first standing orders

11. Certifying officers and appellate authorities to have powers of Civil Court.—Every Certifying Officer and appellate authority shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, and compelling the discovery and production of documents, and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (V of 1888)

12. Oral evidence in contradiction of standing orders not admissible.—No oral evidence having the effect of adding to or otherwise varying or contradicting standing orders as finally certified under this Act shall be admitted in any Court

13. Penalties and procedure.—(1) An employer who fails to submit draft standing orders as required by section 3, or who modifies his standing orders otherwise than in accordance with section 10, shall be punishable with fine which may extend to five thousand rupees, and in the case of a continuing offence with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.

(2) An employer who does any act in contravention of the standing orders finally certified under this Act for his industrial establishment shall be punishable with fine which may extend to one hundred rupees, and in the case of a continuing offence with a further fine which may extend to twenty-five rupees for every day after the first during which the offence continues

(3) No prosecution for an offence punishable under this section shall be instituted except with the previous sanction of the appropriate Government

(4) No Court inferior to that of a Presidency Magistrate or Magistrate of the second class shall try any offence under this section

14. Power to exempt.—The appropriate Government may by notification in the official Gazette exempt, conditionally or unconditionally, any industrial establishment or class of industrial establishments from all or any of the provisions of this Act

15. Power to make rules.—(1) The appropriate Government may, after previous publication, by notification in the official Gazette make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe additional matters to be included in the Schedule, and the procedure to be followed in modifying standing orders certified under this Act in accordance with any such addition ;

(b) set out model standing orders for the purposes of this Act ,

(c) prescribe the procedure of Certifying Officers and appellate authorities ,

(d) prescribe the fee which may be charged for copies of standing orders entered in the register of standing orders ,

(e) provide for any other matter which is to be or may be prescribed

Provided that before any rules are made under clause (a) representatives of both employers and workmen shall be consulted by the appropriate Government

SCHEDULE

[See Sections 2 (g) and 3 (2)]

Matters to be provided in Standing Orders under this Act

1 Classification of workmen, *e.g.*, whether permanent, temporary, apprentices, probationers, or *badlis*.

2 Manner of intimating to workmen periods and hours of work, holidays, pay-days and wage rates.

3. Shift working

4. Attendance and late coming.

5. Conditions of, procedure in applying for, and the authority which may grant, leave and holidays

6 Requirement to enter premises by certain gates, and liability to search

7 Closing and reopening of sections of the industrial establishment, and temporary stoppages of work and the rights and liabilities of the employer and workmen arising therefrom.

8 Termination of employment, and the notice thereof to be given by employer and workmen.

9 Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct

10 Means of redress for workmen against unfair treatment or wrongful exactions by the employer or his agents or servants

11 Any other matter which may be prescribed

INDUSTRIAL EMPLOYMENT (STANDING ORDERS) CENTRAL RULES, 1946¹

In exercise of the powers conferred by section 15, read with clause (b) of section 2, of the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946), the Central Government is pleased to make the following rules, the same having been previously published as required by sub-section (1) of the said section 15, namely :—

1. (1) These rules may be called the Industrial Employment (Standing Orders) Central Rules, 1946.

(2) They extend to all Chief Commissioners' Provinces and shall also apply to industrial establishments under the control of the Central Government, Federal Railways, major ports, mines and oil-fields, throughout ²[the Provinces].

2. In these rules, unless there is anything repugnant in the subject or context :—

(a) 'Act' means the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946).

(b) 'Form' means a form set out in Schedule II appended to these Rules.

¹ These Rules were published under the Government of India, Department of Labour Notification No. L.R. 11 (37), dated the 18th December, 1946

² These words were substituted for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948

3. The Model Standing Orders for the purposes of the Act shall be those set out in Schedule I appended to these Rules

4. An application for certification of Standing Orders shall be made in Form I

5. The prescribed particulars of workmen, for the purposes of sub-section (3) of section 3 of the Act shall be -

- (1) Total Number employed ;
- (2) Number of permanent workmen
- (3) Number of temporary workmen ,
- (4) Number of boys or substitutes ,
- (5) Number of probationers ,
- (6) Number of apprentices ,
- (7) Name of the trade union or trade unions, if any, to which the workmen belong ,
- (8) Remarks

6. As soon as may be after he receives an application under rule 4 in respect of an industrial establishment, the certifying officer shall -

(a) where there is a trade union of the workmen, forward a copy of the draft Standing Orders to the trade-union together with a notice in Form II ;

(b) where there is no such trade union, call a meeting of the workmen to elect three representatives, to whom he shall, upon their election, forward a copy of the draft standing orders together with a notice in Form II.

7. Standing Orders certified in pursuance of sub-section (3) or section 5 or sub-section (2) of section 6 of the Act shall be authenticated by the signature and seal of office of the certifying or the appellate authority, as the case may be, and shall be forwarded by such officer or authority within a week of authentication by registered letter post to the employer and to the trade union, or as the case may be, the representatives of the workmen elected in pursuance of rule 6.

8. The register required to be maintained by section 8 of the Act shall be in Form III and shall be properly bound and the certifying officer shall furnish a copy of standing orders approved for an industrial establishment to any person applying therefor on payment of a fee of rupee one a copy.

SCHEDULE I

Model Standing Orders

1 These orders shall come into force on

2 *Classification of workmen*—(a) Workmen shall be classified as—

- (1) permanent,
- (2) probationers,
- (3) badlis,
- (4) temporary,
- (5) casual,
- (6) apprentices

(b) A “permanent” workman is a workman who has been engaged on a permanent basis and includes any person who has satisfactorily completed a probationary period of three months in the same or another occupation in the industrial establishment including breaks due to sickness, accident, leave, lockout, strike (not being an illegal strike) or involuntary closure of the establishment.

(c) A “probationer” is a workman who is provisionally employed to fill a permanent vacancy in a post and has not completed three months service therein. If a permanent employee is employed as a probationer in a new post he may, at any time during the probationary period of three months, be reverted to his old permanent post.

(d) A “badli” is a workman who is appointed in the post of a permanent workman or probationer who is temporarily absent.

(e) A “temporary” workman is a workman who has been engaged for work which is of an essentially temporary nature likely to be finished within a limited period.

(f) A “casual” workman is a workman whose employment is of a casual nature.

(g) An “apprentice” is a learner who is paid an allowance during the period of his training.

3. *Tickets*.—(1) Every workman shall be given a permanent ticket unless he is a probationer, badli, temporary worker or apprentice

(2) Every permanent workman shall be provided with a departmental ticket showing his number, and shall, on being required to do so, show it to any person authorised by the manager to inspect it.

(3) Every badli shall be provided with a badli card, on which shall be entered the days on which he has worked in the establishment, and which shall be surrendered if he obtains permanent employment

(4) Every temporary workman shall be provided with a 'temporary' ticket which he shall surrender on his discharge

(5) Every casual worker shall be provided with a 'casual' card, on which shall be entered the days on which he has worked in the establishment

(6) Every apprentice shall be provided with an 'apprentice' card, which shall be surrendered if he obtains permanent employment

4 *Publication of working time*—The periods and hours of work for all classes of workers in each shift shall be exhibited in English and in the principal languages of workmen employed in the establishment on notice boards maintained at or near the main entrance of the establishment and at the time-keeper's office, if any

5 *Publication of holidays and pay days*.—Notices specifying (a) the days observed by the establishment as holidays and (b) pay days shall be posted on the said notice boards

6 *Publication of wage rates*—Notices specifying the rates of wages payable to all classes of workmen and for all classes of work shall be displayed on the said notice boards

7 *Shift working*—More than one shift may be worked in a department or departments or any section of a department of the establishment at the discretion of the employer. If more than one shift is worked, the workmen shall be liable to be transferred from one shift to another. No shift working shall be discontinued without one month's notice being given prior to such discontinuance, provided that no such notice will be necessary if, as a result of the discontinuance of the shift, no permanent employee will be discharged. If as a result of discontinuance of shift working, any permanent workmen are to be discharged, they shall be discharged having regard to the length of their service in the establishment, those with the shortest term of service being discharged first. If shift working is restarted, a week's notice thereof shall be given by posting a notice at the main entrance to the establishment and the time-keeper's office, if any; and the workmen discharged as a result of the discontinuance of the shift, shall if they present themselves at the time of the restarting of the shift, have preference in being re-employed, having regard to

the length of their previous service under the establishment, those with the longest term of service being re-employed first

8 *Attendance and late coming*—All workmen shall be at work at the establishment at the times fixed and notified under paragraph 4. Workmen attending late will be liable to the deductions provided for in the Payment of Wages Act, 1936

9 *Leave*—(1) Holidays with pay will be allowed as provided for in Chapter IV A of the Factories Act, 1934, and other holidays in accordance with law, contract, custom and usage

(2) A workman who desires to obtain leave of absence shall apply to the manager, who shall issue orders on the applications within a week of its submission or two days prior to the commencement of the leave applied for, whichever is earlier, provided that if the leave applied for is to commence on the date of the application or within three days thereof, the order shall be given on the same day. If the leave asked for is granted, a leave pass shall be issued to the worker. If the leave is refused or postponed, the fact of such refusal or postponement and the reasons therefor shall be recorded in writing in a register to be maintained for the purpose, and if the worker so desires, a copy of the entry in the register shall be supplied to him. If the workman after proceeding on leave desires an extension thereof he shall apply to the manager who shall send a written reply either granting or refusing extension of leave to the workman if his address is available and if such reply is likely to reach him before the expiry of the leave originally granted to him

(3) If the workman remains absent beyond the period of leave originally granted or subsequently extended, he shall lose his lien on his appointment unless he (a) returns within 8 days of the expiry of the leave and (b) explains to the satisfaction of the manager his inability to return before the expiry of his leave. In case the workman loses his lien on his appointment, he shall be entitled to be kept on the 'badli' list

10. *Casual leave*.—A workman may be granted casual leave of absence with or without pay not exceeding 10 days in the aggregate in calendar year. Such leave shall not be for more than three days at a time except in case of sickness. Such leave is intended to meet special circumstances which cannot be foreseen. Ordinarily, the previous permission of the head of the department in the establishment shall be obtained before such leave is taken but when this is not

possible, the head of the department shall, as soon as may be practicable, be informed in writing of the absence from and of the probable duration of such absence.

11 *Payment of wages* —(1) Any wages, due to the workman but not paid on the usual pay day on account of their being unclaimed, shall be paid by the employer on an unclaimed wage pay day in each week, which shall be notified on the notice boards as aforesaid.

(2) All workmen will be paid wages on a working day before the expiry of the seventh or the tenth day after the last day of the wage period in respect of which the wages are payable, according as the total number of workmen employed in the establishment does not or does exceed one thousand.

12 *Stoppage of work* —(1) The employer may, at any time, in the event of fire, catastrophe, breakdown of machinery or stoppage of power supply, epidemics, civil commotion or other cause beyond his control, stop any section or sections of the establishment, wholly or partially for any period or periods without notice.

(2) In the event of such stoppage during working hours, the workmen affected shall be notified by notices put upon the notice board in the departments concerned, or at the office of the manager, as soon as practicable, when work will be resumed and whether they are to remain or leave their place of work. The workmen shall not ordinarily be required to remain for more than two hours after the commencement of the stoppage. If the period of detention does not exceed one hour the workmen so detained shall not be paid for the period of detention. If the period of detention exceeds one hour, the workmen so detained shall be entitled to receive wages for the whole of the time during which they are detained as a result of the stoppage. In the case of piece-rate workers, the average daily earning for the previous month shall be taken to be the daily wage. No other compensation will be admissible in case of such stoppages. Wherever practicable, reasonable notice shall be given of resumption of normal work.

(3) In cases where workmen are laid off for short periods on account of failure of plant or a temporary curtailment of production, the period of unemployment, shall be treated as compulsory leave either with or without pay, as the case may be. When, however, workmen have to be laid off for an indefinitely long period, their services may be terminated after giving them due notice or pay in lieu thereof.

(4) The employer may in the event of a strike affecting either wholly or partially any section or department of the establishment close down either wholly or partially such section or department and any other section or department effected by such closing down. The fact of such closure shall be notified by notices put on the notice board in the section or department concerned and in the time-keeper's office, if any, as soon as practicable. The workmen concerned shall also be notified by a general notice, prior to resumption of work, as to when work will be resumed.

13 *Termination of employment.*—(1) For terminating employment of a permanent workman, notice in writing shall be given either by the employer or the workman—one month's notice in the case of monthly-rated workmen and two weeks' notice in the case of other workmen; one month's or two weeks' pay, as the case may be, may be paid in lieu of notice.

(2) No temporary workman whether monthly-rated, weekly-rated or piece-rated and no probationer or hadli shall be entitled to any notice or pay in lieu thereof if his services are terminated, but the services of a temporary workman shall not be terminated as a punishment unless he has been given an opportunity of explaining the charges of misconduct alleged against him in the manner prescribed in paragraph 14.

(3) Where the employment of any workman is terminated, the wages earned by him and other dues, if any, shall be paid before the expiry of the second working day from the day on which his employment is terminated.

14. *Disciplinary action for misconduct* —(1) A workman may be fined up to two per cent. of his wages in a month for any of the following acts and omissions, namely:—

.....

Note.—Specify the acts and omissions which the employer may notify with the previous approval of the Government or of the prescribed authority in pursuance of Section 8 of the Payment of Wages Act, 1936.

(2) A workman may be suspended for a period not exceeding four days at a time, or dismissed without notice or any compensation in lieu of notice, if he is found to be guilty of misconduct

(3) The following acts and omissions shall be treated as misconduct —

(a) wilful insubordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior,

(b) theft, fraud, or dishonesty in connection with the employers' business or property,

(c) wilful damage to or loss of employer's goods or property,

(d) taking or giving bribes or any illegal gratification,

(e) habitual absence without leave or absence without leave for more than 10 days,

(f) habitual late attendance,

(g) habitual breach of any law applicable to the establishment,

(h) riotous or disorderly behaviour during working hours at the establishment or any act subversive of discipline,

(i) habitual negligence or neglect of work,

(j) frequent repetition of any act or omission for which a fine may be imposed to a maximum of 2 per cent of the wages in a month,

(k) striking work or inciting others to strike work in contravention of the provisions of any law, or rule having the force of law.

(4) No order of dismissal shall be made unless the workman concerned is informed in writing of the alleged misconduct and is given an opportunity to explain the circumstances alleged against him. The approval of the manager of the establishment or where there is no manager, of the employer is required in every case of dismissal and, when circumstances appear to warrant it, the manager or the employer may institute independent enquiries before dealing with charges against a workman.

(5) An order of suspension shall be in writing and may take effect immediately on delivery to the workman. Such order shall set out in detail the alleged misconduct and the workman shall be given an opportunity of explaining the circumstances alleged against him. If on enquiry the order is confirmed, the workman shall be deemed to have been absent from duty for the period of suspension and shall not be entitled to any remuneration for such period. If, however, the order is rescinded, the workman shall be deemed to

have been on duty during the period of suspension and shall be entitled to the same wages as he would have received if he had not been suspended

(6) In awarding punishment under this standing order, the manager shall take into account the gravity of the misconduct, the previous record, if any, of the workmen and any other extenuating or aggravating circumstances that may exist. A copy of the order passed by the manager shall be supplied to the workmen concerned

15. *Complaints*—All complaints arising out of employment including those relating to unfair treatment or wrongful exaction on the part of the employer or his agent, shall be submitted to the manager or other person specified in this behalf with the right of appeal to the employer

16. *Certificate on termination of service*—Every permanent workman shall be entitled to a service certificate at the time of his dismissal, discharge or retirement from service

17. *Liability of manager*—The manager of the establishment shall personally be held responsible for the proper and faithful observance of the standing orders

18. *Exhibition of standing orders*.—A copy of these orders in English and in ... shall be posted at the manager's office and on a notice board maintained at or near the main entrance to the establishment and shall be kept in legible condition

SCHEDULE II

FORM I

[Industrial Employment (Standing Orders) Act, 1946, Section 3]

Dated

19

To

The Certifying Officer, Central Government

(Area)
(Place)

Sir,

Under the provisions of section 3 of the Industrial Employment (Standing Orders) Act, 1946, I enclose five copies of the draft standing orders proposed by me for adoption in _____

(Name)

(Place)

(Postal address)

an industrial establishment owned/controlled by me, with the request that these orders may be certified under the terms of the Act. I also enclose a statement giving the particulars prescribed in rule 5 of the Industrial Employment (Standing Orders) Central Rules, 1946

I am etc.,

(Signature)

Employer
Manager

FORM II

[Notice under section 5 of the Industrial Employment (Standing Orders) Act, 1946]

Office of the Certifying Officer

area, place

Dated, the.....19 ..

I,, Certifying Officer,, area, forward herewith a copy of the draft standing orders proposed by the employer for adoption in the industrial establishment and submitted to me for certification under the Industrial Employment (Standing Orders) Act, 1946. Any objections which the workmen may desire to make to the draft standing orders should be submitted to me within fifteen days from the receipt of this notice.

(Certifying Officer)

Seal

To

The Secretary,

.....Union

Representative elected under Rule 6

Name.....
Occupation.....
Industrial establishment

APPELLATE AUTHORITY

No. L R 11 (92), dated the 31st August, 1949—In pursuance of clauses (a) and (c) of section 2 of the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946) and in supersession of the notification of the Government of India in the late Department of Labour No. L R 11 (37) dated the 26th November, 1946, the Central Government is pleased to appoint the Chief Labour Commissioner (Central) to exercise the functions of an Appellate Authority under the said Act in all the Provinces of India in respect of industrial establishments under the control of the Central Government or a Federal Railway or in a major port, mine or oilfield and to appoint the officers specified in column 1 of the Schedule hereto annexed to exercise the functions of a Certifying Officer under the said Act in respect of the industrial establishments as aforesaid situated within the areas specified in the corresponding entries in column 2 of the said Schedule

SCHEDULE

Regional Labour Commissioner (Central), Kanpur—(a) In respect of industrial establishments under the control of a Federal Railway, the areas of the following Railways—namely the East Punjab Railway, Oudh and Tirhut Railway, Jodhpur State Railway (Indian Union Section only), and other Federal Railways in the Provinces of the East Punjab, Delhi and Ajmer-Merwara and in the United Provinces (b) In respect of other industrial establishments owned by the Central Government and industrial establishments in mines or oilfields in the East Punjab, Delhi, the United Provinces and Ajmer-Merwara

Regional Labour Commissioner (Central), Calcutta—(a) In respect of industrial establishments under the control of a Federal Railway, the areas of the following Railways—namely, East Indian Railway, Assam Railway, Bengal Nagpur Railway and other Federal Railways in the Provinces of West Bengal, Assam and Orissa (b) In respect of other industrial establishments owned by the Central Government and industrial establishments in major ports, mines (other than coal mines) or oilfields, the Provinces of West Bengal, Assam and Orissa (c) In respect of industrial establishments in coal mines in Assam and Orissa

Regional Labour Commissioner (Central), Bombay—(a) In respect of industrial establishments under the control of a Federal Railway, the areas of the following Railways—namely, the Great Indian Peninsula Railway, Bombay, Baroda and Central India Railway and other Federal Railways in the Province of Bombay. (b) In respect of other industrial establishments owned by the Central Government and industrial establishments in major ports, mines or oil-fields, the Province of Bombay

Regional Labour Commissioner (Central), Dhanbad—(a) In respect of industrial establishments (other than those under the control of a Federal Railway) owned by the Central Government and industrial establishment in mines (other than coal mines) or oilfields, the Provinces of Bihar and Central Provinces and Berar (b) In respect of industrial establishments in coal mines, the Provinces of West Bengal, Bihar and Central Provinces and Berar

Regional Labour Commissioner (Central), Madras—(a) In respect of industrial establishments under the control of a Federal Railway, the areas of

the following Railways namely, Madras and Southern Mahratta Railway, South Indian Railway and other Federal Railways in the Provinces of Madras and Coorg (b) In respect of other industrial establishments owned by the Central Government and industrial establishment in major ports, mines or oilfields, the Provinces of Madras and Coorg.

EXEMPTION OF INDUSTRIAL ESTABLISHMENTS IN MAJOR PORTS

No L.R. 11 (81), dated the 7th January, 1949—In exercise of the powers conferred by Section 14 of the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946), the Central Government is pleased to exempt the industrial establishments in the major ports of Bombay, Calcutta and Madras from the provisions of the said Act subject to the following conditions, namely —

(1) the port authorities shall arrange to bring together all the rules relating to the matters set out in the Schedule to the said Act in a pamphlet form and publish them in English and in the language or languages understood by the majority of the workmen,

(2) a copy of the pamphlet shall be supplied to each workman

TRADE UNION LEGISLATION

Early Trade Unionism in India.

The first recorded case of collective representation of their claims by the workers was made in 1884 by the labour leader Mr Lokhanday who organised a conference of factory workers to draw up a memorandum to the Factory Commission. The earliest trade union in the country was the Bombay Millhands' Association formed in 1890. Since 1918 trade unions have been growing both in number and volume. The trade unions did not enjoy legal status and the workers' right to organise and strike for furtherance of their own interest was not recognised under the law. The decision of the Madras High Court in 1920 in the famous case of the Buckingham Mill granting an injunction restraining Madras Union officials from influencing labourers to break their contract with the employers by striking with a view to obtain increased wages, focussed public attention to the necessity of giving legal recognition to workers' right to organise and strike in defence of their legitimate interests.

Resolution of the Indian Legislative Assembly in 1921.

In 1921 the Government of India accepted a Resolution of the Legislative Assembly to take steps to introduce such legislation as may be necessary for registration and protection of trade unions. Under the existing law, there was perfect freedom of association and the International Labour Convention on the Right of Association, 1921, was ratified by the Government of India in 1923. The Govern-

ment of India after consulting the Provincial Governments drew up a Bill providing for the registration of trade unions and introduced the same in the Legislative Assembly on 31st August, 1925. The Indian Trade Unions Act was passed in 1926 (XVI of 1926) and came into force on 1st June, 1927. The Act defines the legal positions of trade unions and provides for their registration.

Main Provisions of the Indian Trade Unions Act, 1926.

The main object of the Act is to give registered trade unions a legal and corporate status and their executives and members immunity from civil and criminal liability in respect of strikes. An association of workers, if organised for legitimate trade union purposes, can apply to the Registrar appointed by the Provincial Government for registration and obtain a Registration Certificate. The registration of the trade unions has been made optional but the auditing of the funds is compulsory. The general funds of a trade union must be spent for certain specified objects intended to promote the interests of its members. A trade union can create a fund for the civic and political interests of its members, but the contribution to it must be voluntary. Outsiders are allowed to be on an union's executive committee, but at least half of the total number of office-bearers of a registered union must be employed in the industry concerned. The minimum age for admission to membership is 15 and to executive office is 18. Every registered union has to maintain a list of members and has to send an annual statement of its income and expenditure, assets and liabilities in the prescribed form to the Provincial Registrar to whom the changes of office-bearers should also be intimated. Infringement of the provisions may lead to a maximum fine of Rs. 500/- and the offence is triable by a Presidency or First Class-Magistrate.

Indian Trade Unions (Amendment) Act, 1928 (XV of 1928).

With a view to clearly defining the procedure regarding appeal against the decision of a Registrar refusing to register a trade union or withdrawing a Registration Certificate, the Act was amended in 1928.

Activities of Trade Unions not confined to one Province.

The Act as adapted by the Government of India (Adaptation of Indian Law) Order 1937 vested in the Central Government the powers of the Provincial Governments in respect of trade unions

whose activities are not confined to one Province. The Central Government promulgated the Central Trade Union Regulations in 1939 for the purpose of putting into effect the provisions of the Act and appointed the Central Registrar for regulating such unions.

Registered Trade Unions in India.

The legal status of trade unions in India has not been greatly advanced since the passing of the Act in 1926. There were 29 registered trade unions in 1927-28 with a total membership of 100,619.

The growth of trade unionism in India since 1927-28¹ is shown in the table below —

Year	No of registered trade unions	No of unions which submitted returns under the Act	Total membership of the unions as shown in column 3			Average membership per union making returns
			Men	Women	Total	
1	2	3	4	5	6	7
1927-28	29	28	99,451	1,168	100,619	3,594
1928-29	75	65	177,235	3,842	181,077	2,786
1929-30	104	90	239,056	3,299	242,355	2,698
1930-31	119	106	215,964	3,151	219,115	2,067
1931-32	131	121	232,239	3,454	235,693	1,948
1932-33	170	147	232,279	5,090	237,369	1,615
1933-34	191	160	205,072	2,999	208,071	1,300
1934-35	213	183	280,081	4,837	284,918	1,557
1935-36	241	205	261,017	7,309	268,326	1,309
1936-37	271	228	252,022	9,025	261,047	1,145
1937-38	420	343	375,409	14,703	390,112	1,137
1938-39	562	394	388,214	10,945	399,159	1,013
1939-40	667	450	492,526	18,612	511,138	1,136
1940-41	727	483	494,415	19,417	513,832	1,064
1941-42	747	455	556,426	17,094	573,520	1,260
1942-43	693	489	659,327	25,972	685,299	1,401
1943-44	761	563	760,101	20,866	780,967	1,387
1944-45	865	573	853,073	36,315	889,388	1,552
1945-46	1,087	585	825,461	38,570	864,031	1,480
1946-47†	1,725	998	1,267,164	64,798	1,331,962	1,335
1947-48§	2,766	1,628	1,560,630	1,02,299	1,662,929¶	1,021

¹ Does not include figures for Punjab. † Relates to 584 Unions.

‡ The figures for 1946-47 relate to the Provinces in the Dominion of India with the exception of East Punjab which had 108 Unions.

§ The exact number of registered unions in East Punjab is not known and previous year's figures has been mentioned in column 2.

¶ Relates to 1,620 unions.

¹ Indian Labour Gazette, August 1948 and August 1949, pp 69 and 77 and the Report of the working of the Indian Trade Unions Act during 1947-48, Manager of Publications, Delhi, 1949.

From the table it will be seen that the number of unions and their membership showed a phenomenal increase in 1947-48 and this increase was 2½ times over the figures of 1946-47. Out of 2,766 registered unions in 1947-48, 109 were Central Unions and the remaining 2,657 were Provincial Unions. West Bengal comes first with 926 unions (against 601 in 1946-47) with a total membership of 4,18,906. Madras comes next with 512 unions (against 368 in 1946-47) with a membership of 2,42,628, Bombay with 306 unions (against 168 in 1946-47) with a membership of 3,16,622, United Provinces with 282 unions (against 193 in 1946-47) with a membership of 1,27,682 and Bihar with 238 unions (against 111 in 1946-47) with a membership of 1,23,137 members. The number of Central Unions increased from 44 in 1946-47 to 109 in 1947-48. There were 17 Federations in 1947-48 as compared to 7 in 1946-47.

According to returns submitted in 1947-48 and classified according to industries, Textiles come first with 4,30,844 members, Railways (including workshops and other transport but excluding Tramways) comes next with 3,84,863 members, Seamen 64,616, Engineering 98,333, Docks and Port Trusts 43,093, Municipal 39,154, Printing Presses 25,737, Tramways 17,686, Agriculture 10,627 and Miscellaneous members 5,47,976.

Recognition of Unions.

Very few of these unions have been recognised by the employers. There is at present no obligation on the part of the employers to recognise registered trade unions. It has been felt that with the existing conditions in India, there should be some legal obligation on the part of the employers to recognise truly representative trade unions. The Royal Commission on Labour deprecated obligatory recognition, but the position regarding voluntary recognition has not improved as expected.

Indian Trade Unions (Amendment) Bill, 1946.

The Government of India after discussions with the Provincial and State Governments, Employers' and Workers' representatives in the different meetings of the Indian Labour Conferences and Standing Labour Committees, introduced the Indian Trade Unions (Amendment) Bill¹ in the Central Legislature on the 14th February, 1946 to

¹ For Statement of Objects and Reasons, see Gazette of India, Part V, dated the 23rd February, 1946 and for Report of the Select Committee, see *ibid*, dated the 5th April, 1947.

amend the Indian Trade Unions Act, 1926 providing for obligatory recognition of representative trade unions. Whether a trade union is representative or not will be decided by the Industrial Court set up for the purpose. The Bill was referred to Select Committee which submitted Report on the 28th February 1947 making several amendments and suggesting that Courts to be appointed under the proposed Act should be designated as Labour Courts.

The Bill was taken into consideration in the first session of the Dominion Legislature on the 18th November 1947 and was passed on the 19th November 1947 (XLV of 1947).

Special Features of Trade Unions (Amendment) Act, 1947.¹

The Trade Union law now relates to registered and recognised Trade Unions and to certain unfair practices in industrial or trade employment.

The amended Act provides for compulsory recognition of trade unions satisfying certain prescribed conditions and penalising unfair practices by recognised trade unions and also by employers. Two new chapters—IIIA regarding recognition of trade unions and IIIB regarding unfair practices have been inserted in the existing Act.

Compulsory Recognition of Registered Unions :

A Recognition by Agreement.

When the employer agrees to recognise a Trade Union, a Memorandum of Agreement signed by the employer and the officers of the Trade Union or their authorised representatives shall have to be presented to the Registrar who shall record the Memorandum in the Register in a prescribed manner.

Such an agreement may be revoked by either party on application to the Registrar in a prescribed manner.

While such an agreement is in force, the Trade Union shall have the rights of a recognised Trade Union under the Act and shall for other purposes be deemed to be a recognised Trade Union.

B. Recognition by an Order of Labour Court

(1) Constitution of Labour Courts.—The amended Act provides for appointment and constitution of Labour Court consisting of one

¹ The amended Act has not yet been brought into force. Draft Recognition Regulations under the amended Act have been published by the Central Government and some of the Provincial Governments.

or more persons, each of whom is, or has been, (a) a Judge of a High Court or a District Judge or (b) qualified for appointment as a Judge of a High Court

Every Labour Court shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses and compelling the discovery and production of documents

(2) Grant of recognition by Labour Court —Where a registered Trade Union having applied for recognition to an employer has failed to obtain recognition within a period of three months from the date of making such application, it may apply in writing to the Labour Court for recognition by that employer

The Labour Court may call for further information from the Trade Union and on failure of furnishing the required information within the time granted, the Labour Court may dismiss the application.

The Labour Court after serving notice on the employer will investigate whether the Trade Union fulfils the conditions for recognition and in deciding the representative character of the Union, the Labour Court shall take into consideration whether the proportion which the number of workmen who are members of the Trade Union and are not in arrears of their subscription for any period exceeding three months bears to the total number of such workmen is less, or not less, than such percentage, if any, as may be prescribed in this behalf.

If the Labour Court is satisfied that the Trade Union is fit to be recognised by the employer, it shall make order directing such recognition.

Every such order shall be forwarded to the appropriate Government which shall notify it in the official Gazette and while a recognition directed by such order is in force, the Trade Union shall, in its relations with the employer concerned, have all the rights of a Recognized Trade Union under the Act and shall for all other purposes be deemed to be a Recognized Trade Union.

Conditions for Recognition by Labour Court.

The main conditions for recognition of Trade Unions by an order of a Labour Court are—(i) that all its ordinary members are workmen employed in the same industry or in industries closely

allied to or connected with each other ; (ii) that it is representative of all the workmen employed in that industry or those industries ; (iii) that its rules do not provide for the exclusion of any class of workmen from its membership , (iv) that its rules provide for procedure for declaring a strike ; (v) that its rules provide that a meeting of its executive shall be held at least once in six months , and (vi) that it is a registered Trade Union and has complied with all the provisions of the Act

Rights of Recognized Trade Unions.

The executive of a Recognized Trade Union shall be entitled to negotiate with employers in respect of matters connected with the employment or non-employment or the terms of employment or the conditions of labour of all or any of its members and the employer shall receive and send replies to letters sent by the executive on, and grant interviews to that body regarding, such matters.

The employer is not required to send replies or grant interviews regarding matters on which, as a result of previous discussion with the executive of the Trade Union, the employer has arrived at a conclusion, unless a period of at least three months has elapsed since the said conclusion was intimated to the executive or unless there has been a change in the circumstances

Any dispute between the employer and the executive of a Recognized Trade Union as to whether a conclusion has been arrived at or whether there has been a change in circumstances shall be referred to the Registrar whose decision shall be final.

The executive of a Recognized Trade Union shall be entitled to display notices of the trade union in any premises where its members are employed and the employer shall afford the executive reasonable facilities for that purpose

Withdrawal of Recognition.

Where a Trade Union has been recognized by the employer under the order of the Labour Court, the Registrar or the employer may apply in writing to the Labour Court for withdrawal of recognition on any of the following grounds :—

(i) that the executive or members of the Trade Union have indulged in unfair practices, such as : (a) majority of its members taking part in irregular strike (irregular strike means an illegal strike or a strike declared by a Trade Union in contravention of its

rules providing for procedure for declaring a strike), (b) its executive advising or actively supporting or instigating an irregular strike and (c) submitting any return containing false statement

(ii) that the Trade Union has failed to submit any return at the prescribed time and in the prescribed manner

(iii) that the Trade Union has ceased to be representative of the workmen

On receipt of application, the Labour Court shall serve notice on the Trade Union to show cause why its recognition should not be withheld

After giving a reasonable opportunity to the Trade Union to show cause, if the Labour Court is satisfied that the Trade Union is no longer fit to be recognized, it shall make an order withdrawing the recognition of the Trade Union and forward a copy of the order to the appropriate Government for notification in the official Gazette

Application for fresh Recognition.

On the expiry of six months from the date of withdrawal of recognition, the Trade Union, if it still continues to be a registered one, may again apply for recognition and the procedure for recognition shall apply in respect of such application as if it were an original application for recognition

Submission of prescribed returns by Recognized Unions.

In addition to the submission of annual and periodical returns, every Recognized Trade Union has to submit to the Registrar, returns at the prescribed time and in the prescribed manner.

Unfair practices.

The amended Act prohibits unfair practices by Recognized Trade Unions and employers

(a) Unfair practices by Recognized Trade Unions.

The following shall be deemed to be unfair practices on the part of the Recognized Trade Unions:—(i) majority of its members taking part in an irregular strike, (ii) its executive advising, actively supporting or instigating an irregular strike and (iii) submitting returns containing false statements

(b) Unfair practices by Employers.

The following shall be deemed to be unfair practices on the part of the employers:—(i) interfering with, restraining or coercing

the workmen in exercise of their rights to organise, form, join or assist a Trade Union and to engage in concerted activities for the purpose of mutual aid or protection ; (ii) interfering with the formation or administration of any Trade Union or contributing financial or other support to it ; (iii) discharging or otherwise discriminating against any officer of a Recognized Trade Union because of his being such officer , (iv) discharging or otherwise discriminating against any worker for his allegation or evidence in an enquiry or proceeding under the Act relating to matters connected with the employment or non-employment or the terms of employment or the conditions of labour of the member workmen

The refusal of the employer to permit his workmen to engage in trade union activities during their hours of work shall not be deemed to be unfair practice

Penalty for unfair practices.

An employer committing an unfair practice shall be punishable with fine which may extend to Rs 1,000

The Court imposing a fine on an employer for committing unfair practice or confirming the same in appeal or revision may order payment of the whole or part of the fine to any person as compensation for loss or injury caused by the unfair practice

Enforcement of the Amended Act of 1947 and proposed Amendment to the Indian Trade Unions Act, 1926.

The Indian Trade Unions (Amendment) Act, 1947, though passed in November 1947 has not yet been brought into force. The Central Government has decided not to enforce the Amended Act of 1947 pending consideration of certain further amendments of the original Act. Amendment to the Indian Trade Unions Act, 1926, with a view to securing greater control over the working of the registered trade unions was one of the items on the agenda of the Eleventh Meeting of the Standing Labour Committee held in New Delhi on the 19th and 20th January, 1949

The Conference of Provincial and States Labour Ministers held at New Delhi on the 17th and 18th January 1949, while discussing about the implementation of the Freedom of Association Convention (No 87)¹ adopted by the International Labour Conference at San

¹ I.L.O. Resolution on the Freedom of Association, 1947, Freedom of Association and Protection of the Right to Organise Convention, 1948 and Right to Organise and Collective Bargaining Convention, 1949 have been reproduced in the Appendix of this Book

Francisco in 1948, considered further amendment of the Indian Trade Unions Act, 1926 and enforcement of the Indian Trade Unions (Amendment) Act, 1947. "The important amendments are in regard to compulsory recognition and there are two or more unions dealing with the same establishment of industry and the inclusion of outsiders in the management of the unions. As regards the former, it was decided that an employer can not be compelled to recognise more than one union and that he should be compelled to recognise only the one representative union as determined by the Labour Court. It was also contended, that any union which does not resort to strike during the period of Industrial Truce, should be recognised. Regarding inclusion of outsiders in the management of unions, it was recommended that the present provision in the Act which restricts outsiders to one-half of the total number of officers of a registered trade union should be amended to one-fourth or four whichever is less."¹

Trade Unions Recognition Regulations.

The Draft of the Regulations proposed by the Central Government under the Amended Act, prescribing the procedure to be followed by the Labour Court in the matter of recognition of trade unions and applicable to trade unions consisting of workmen employed by the Central Government or by a Federal Railway, or major port, mine or oilfield, was published in the Gazette of India on the 29th January, 1949. Bombay and some other Provincial Governments have also published Draft Recognition Regulations.

Central Trade Union Organisations in India.

The trade union movement in India is now split up into four Central Organisations—(1) All-India Trade Union Congress—President Mr. S. A. Dange and Acting General Secretary Mr. Manek Gandhi, the General Secretary Mr. N. M. Joshi having resigned on the 9th October, 1948², (2) Indian National Trade Union Congress—President Mr. Khandubhai Desai and General Secretary Pandit Harihar Nath Shastri, (3) Hind Mazdoor Sabha—President Mr. R. S. Ruikar and General Secretary Mr. Asoke Mehta and (4) United Trades Union Congress—President Prof. K. T. Shah and General Secretary Mr. Mrinal Kanti Bose.

¹ Labour Gazette, Bombay, Vol. XXVIII, No. 6, February, 1949, p. 608.

² Election of new office bearers of A. I. T. U. C. is being held in 1949.

All-India Trade Union Congress

The oldest one is the All-India Trade Union Congress organised in October 1920. In the first period, the trade union movement was conducted predominantly by persons actuated by humanitarian considerations. The miserable and helpless conditions of the workers persuaded social and political workers to take interest in them. Some of the political leaders like Lala Lajpat Rai, Deshbandhu Chittaranjan Das, Netaji Subhas Chandra Bose and Pandit Jawaharlal Nehru were very prominently associated with the labour movement. Mr N M Joshi and his colleagues were not strictly humanitarians and had a sense of workers' rights and of the demands of social justice. Mr Joshi is regarded as the father of the trade union movement and is the acknowledged guide and philosopher of the trade unionists.

National Trade Union Federation and Red Trade Union Congress

The All-India Trade Union Congress maintained its solidarity up to 1929 when there was a split on the question of its attitude towards the Royal Commission on Labour. In the Nagpur session of the Congress held in December 1929 when this split took place, the section which seceded from the Congress started the All India Trade Union Federation which was subsequently known as National Trade Union Federation. In 1931 another section known as Red Trade Union Congress seceded from the All-India Trade Union Congress. The Red Trade Union Congress dissolved itself in 1935 and returned back to the All-India Trade Union Congress. In 1940 the National Trade Union Federation liquidated itself and merged with the All-India Trade Union Congress.

Indian Federation of Labour.

A split in the All-India Trade Union Congress took place in 1941 on the issue of A. I. T. U. C.'s attitude towards the war. Trade Unionists belonging to Mr. M. N. Roy's Radical Democratic Party were of opinion that in pursuance of the fundamental principles of the trade union movement, the A. I. T. U. C. should support and participate in the anti-Fascist war irrespective of acts of omissions and commission of the British Government. But the majority of the trade unionists were opposed to this view and the A. I. T. U. C. refused to support the war. The Radicals left the A. I. T. U. C. and formed a new organisation in November 1941 called the Indian Federation of Labour.

A I T U C declared Representative of Organised Labour

In 1944 the Government of India accepted the principle of rotation and decided to select Workers' Delegate and his Advisers to the International Labour Conferences alternately in consultation with the All-India Trade Union Congress and the Indian Federation of Labour. In 1944 the Federation was consulted and in 1945 the Congress was consulted. In 1946 the Government decided to hold an enquiry regarding the representative character of these two organisations. Mr. S. C. Joshi, the Chief Labour Commissioner, was appointed to hold the enquiry and he reported that the All-India Trade Union Congress was a numerically larger and more representative organisation.¹ The Government accepted the finding and recognised the A I T U C as the most representative Central Organisation of Indian workers.

Indian National Trade Union Congress.

A further split in the All-India Trade Union Congress took place in June 1947 resulting in the formation of the Indian National Trade Union Congress. The Indian National Congress sponsored this new Central Organisation in order to keep in touch with the labour movement and to guide its growth along genuine trade union lines. The important feature of its constitution is that each affiliated union should offer to submit every industrial dispute in which settlement is not reached by negotiation, to arbitration and should not resort to strike till other means of settlement have been exhausted. The objects of this organisation are: "to eliminate progressively social, political and economic exploitation and inequity, the profit motive, and anti-social concentration of power in any form, to place industry under state ownership or control, to ensure full employment; to secure the increasing association of workers in the administration and control of the industry; and to promote the civic and political interests of workers"².

I N T U C declared Representative of Organised Labour

In 1946 and 1947, the All-India Trade Union Congress was invited to represent the Indian working class at the International

¹ Report regarding Representative Character of the All-India Trade Union Congress and the Indian Federation of Labour, 1946 by Mr. S. C. Joshi, Chief Labour Commissioner Central, p. 9 (Manager of Publications, Delhi, 1946).

² International Labour Review, Vol. LXVI, Nos. 5-6, November-December, 1947, p. 629.

Labour Conference held in Montreal and Geneva. On the 12th December 1947, the Indian National Trade Union Congress wrote to the Government of India claiming to be recognised as the most representative Central Organisation of organised labour in India and asked the Government to recognise its claim after making such scrutiny as might be deemed necessary. The Government decided to conduct an enquiry to ascertain which of the two organisations, viz., the Indian National Trade Union Congress or the All-India Trade Union Congress was the most representative workers' organisation. According to the enquiry, "the membership of the A I T U C comes to 8, 15, 011 and of the I N T U C to 9, 73, 179 giving a lead to the latter by 1, 58, 168"¹. In a Communiqué issued on the 1st June 1948, the Government of India announced its decision that the I N T U C was the most representative organisation of the Indian workers and invited it to represent the Indian working class at the International Labour Conference at San Francisco in 1948.

Hind Mazdoor Sabha and merger of Indian Federation of Labour.

A further split in the All-India Trade Union Congress took place in December 1948 when the Socialists who previously formed a Central Organisation named Hind Mazdoor Panchayat and some trade unionists with Socialist tendency set up a new Central Trade Union Organisation called Hind Mazdoor Sabha in a Labour Conference held at Calcutta on the 24th and 25th December, 1948. The Indian Federation of Labour merged in this new body and it also include a number of hitherto independent unions. The Conference adopted a resolution stressing the necessity of keeping trade unions free from domination by Governments, employers or political parties. The objects of this new organisation are—"participation of the workers in the control and regulation of industry; nationalisation of key industries and banking, effective recognition of the right to bargain collectively; a living wage for all workers and a guarantee of the right to work; adequate social security measures; reasonable hours of work, adequate spare time and holidays with pay; free compulsory elementary and adult education, and facilities for vocational training;

¹ Report relating to the Enquiry whether the All-India Trade Union Congress or the Indian National Trade Union Congress is the most Representative Organisation of organised workers in India, 1948, p. 9, (Manager, Government of India Press, Simla, 1948)

provision for child welfare and maternity benefit, and a close working relationship with the Co-operative movement”¹

United Trades Union Congress

The fourth Central Trade Union Organisation styled as the United Trades Union Congress was formed at All-India Labour Conference held in Calcutta on the 30th April, 1949. Prof. K. T. Saha presiding over the Conference, criticised the Government for their failure to improve the lot of the workers in not implementing the National Plan which the Congress had formulated.² The new body was formed to conduct trade union activities and to build up a central platform of labour on the basis of the broadest possible trade union unity, free from sectarian party politics.³

External and Internal Recognition of Central Unions by Government

Though the Central Government has recognised the Indian National Trade Union Congress as the most representative organisation of organised workers in India for sending delegates to the International Labour Conference, the representatives of all the four Central Organisations, viz., I.N.T.U.C., A.I.T.U.C., H.M.S. and U.T.U.C., are being invited by the Government at the different Tripartite Conferences and Committees.

Future of Trade Unionism in India.

The trade union movement in India is in a deplorable state, being split up into four Central Organisations, each trying to acquire labour leadership without looking to the best interests of the working class and at the cost of the other organisation. The unions themselves are weakened by internal fractional struggle for leadership. The All-India Trade Union Congress is now, for all intents and purposes, a Communist organisation. The National Trade Union Congress is accused of being “an appendage of the Government party”⁴ and its policy “will be found rightly or wrongly, to be inadequate by Indian workers, for realising their immediate as well as ultimate aims.”⁵ The trade unionists who left the A.I.T.U.C. in 1948 on the ground of the latter being a Communist organisation,

¹ Industry and Labour, Vol. I, No. 9, 1st May, 1949, p. 376.

² Statesman, 1st May, 1949. ³ Hindustan Standard, 2nd May, 1949.

⁴ Main Task Before Indian Trade Unions by M. N. Roy, Indian Labour, Vol. V, No. 12 & Vol. VI, No. 1, December, 1947 and January, 1948, p. 22.

⁵ Labour on March issued by the Socialist Party, Bombay, 1948, p. 41.

could not settle their mutual differences but found two rival Central Organisations in December 1948 and April 1949 without caring for unity in labour ranks. The Hind Mazdoor Sabha deplors the formation of the United Trades Union Congress, which, in turn, complains that the former has by-passed them on the ground of their fundamental differences as they stand for class struggle to achieve Socialist society.

Unless the different trade union leaders, forgetting their party or political affiliations, take only the interests of the working class at heart, the Indian labour has to cross many a huddle in achieving their ultimate object. These Central Organisations should work shoulder to shoulder for arriving at their common objective and should not vilify each other. A beginning has been made in Bombay in an understanding between the Hind Mazdoor Sabha and the Indian National Trade Union Congress on certain matters.

INDIAN TRADE UNIONS ACT, 1926 (XVI OF 1926)

Arrangement of Sections

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INDIAN TRADE UNIONS ACT, 1926 (XVI OF 1926)¹

An Act to provide for the registration ²[and recognition] of Trade Unions and in certain respects to define the law relating to Trade Unions in ³[the Provinces].

WHEREAS it is expedient to provide for the registration ²[and recognition] of Trade Unions and in certain respects to define the law relating to ¹[registered and recognised Trade Unions and to

¹ For Statement of Objects and Reasons, see Gazette of India, 1925, Pt V, p 8, and for Report of Select Committee, see *ibid.*, p 197.

² These words were inserted by S 2 of Indian Trade Unions (Amendment) Act, 1947 (XLV of 1947)

³ These words were substituted for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948

⁴ These words were substituted for the words "registered Trade Unions in British India," *ibid.*

certain unfair practices in industrial or trade employment]. It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Indian Trade Unions Act, 1926

(2) It extends to ¹[all the Province of India] including ²the Southal Parganas

(3) It shall come into force on such ³date as the ⁴[Central Government] may, by notification in the ⁵[official Gazette], appoint.

2. Definitions.—⁶[In this Act, unless there is anything repugnant in the subject or context,—

(a) “appropriate Government” means, in relation to Trade Unions whose objects are not confined to one Province, the Central Government, and in relation to other Trade Unions, but subject to the provisions of section 28A, the Provincial Government ;

(b) “employer” means,—

(i) in relation to an industry carried on by or under the authority of any department of the Central Government or a Provincial Government, the authority prescribed in this behalf, or where no authority is prescribed, the head of the department.

(ii) in relation to an industry carried on by or on behalf of a local authority, the chief executive officer of that authority.

and includes an association of employers ;

¹ These words were substituted for the words “the whole of British India” by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948

² The words “British Baluchistan” was omitted, *ibid.*

³ This Act was brought into force on the 1st June, 1927, see Gazette of India, 1927, Pt. I, p. 467. The Indian Trade Unions (Amendment) Act, 1947 has not yet been brought into force.

⁴ These words were substituted for the words “Governor General in Council” by the Government of India (Adaptation of Indian Laws) Order, 1937

⁵ These words were substituted for the words “Gazette of India,” *ibid.*

⁶ The opening paragraph and clauses (a) to (e) were substituted for the opening paragraph and clause (a) by s. 3 of Indian Trade Unions (Amendment) Act, 1947 (XLV of 1947).

- (c) "executive" means the body, by whatever name called, to which the management of the affairs of a Trade Union is entrusted ;
- (d) "industry" means any business, trade, undertaking, manufacture or calling of employers, and includes any calling, service, employment, handicraft or industrial occupation or avocation of workmen ;
- (e) "Labour Court" means, in relation to a Trade Union, a Labour Court appointed by the appropriate Government sub-section (1) of section 28B ;]
- ¹[(f) "officer" in the case of a Trade Union, includes any member of the executive thereof, but does not include an auditor ;
- (g) "prescribed" means prescribed by regulations made under this Act] ;
- ²[(h) "recognized Trade Unions" means a Trade Union recognised under this Act ;]
- ³[(i) "registered office" means that office of a Trade Union which is registered under this Act as the head office thereof ;
- (j) "Registered Trade Union" means a Trade Union registered under this Act ;
- (k) "Registrar" means a Registrar of Trade Unions appointed by the ⁴[appropriate Government] under section 3, and "the Registrar," in relation to any Trade Union, means the Registrar appointed for the Province to which the head or registered office, as the case may be, of the Trade Union is situated] ;
- ⁵[(l) "strike" has the meaning assigned to it in the Industrial Dispute Act, 1947 (XIV of 1947), "illegal strike" means a strike which by virtue of any law for the time being in force is illegal, and "irregular strike" means an

¹ Clauses (f) and (g) were relettered for the original clauses (b) and (c) by s. 3 of the Indian Trade Unions (Amendment) Act, 1947.

² This new clause was inserted by s. 3, *ibid*

³ Clauses (i), (j) and (k) were relettered for the original clauses (d), e and (f) by s. 3, *ibid*

⁴ These words were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵ This new clause was inserted by s. 3 of the Indian Trade Unions (Amendment) Act, 1947 (XIV of 1947).

illegal strike or a strike declared by a Trade Union in contravention of its rules referred to in clause (d) of section 28D ;]

- [(m) "trade dispute" means any dispute between employers and workmen or between workmen and workmen, or between employers and employers which is connected with the employment or non-employment or the terms of employment or the conditions of labour of any person, and "workmen" means all persons employed in trade or industry whether or not in the employment of the employer with whom the trade dispute arises ; and
- (n) "Trade Union" means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions] ,

Provided that this Act shall not affect—

- (i) any agreement between partners as to their own business ;
- (ii) any agreement between an employer and those employed by him as to such employment ; or
- (iii) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft.

CHAPTER II

REGISTRATION OF TRADE UNIONS.

3. Appointment of Registrars.—²[The appropriate Government] shall appoint a person to be the Registrar of Trade Unions for ³[each Province].

4. Mode of Registration.—Any seven or more members of a Trade Union may, by subscribing their names to the rules of the

¹ Clauses (m) and (n) were relettered for the original clauses (g) and (h) by sec. 3 of the Indian Trade Unions (Amendment) Act, 1947.

² These words were substituted for the words "Each Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

³ These words were substituted for the words "the Province", *ibid*

Trade Union and by otherwise complying with the provisions of this Act with respect to registration, apply for registration of the Trade Union under this Act

5. Application for registration.—(1) Every application for registration of a Trade Union shall be made to the Registrar, and shall be accompanied by a copy of the rules of the Trade Union and a statement of the following particulars, namely —

- (a) the names, occupations and addresses of the members making the application,
- (b) the name of the Trade Union and the address of its head office, and
- (c) the titles, names, ages, addresses and occupations of the officers of the Trade Union

(2) Where a Trade Union has been in existence for more than one year before the making of an application for its registration, there shall be delivered to the Registrar, together with the application, a general statement of the assets and liabilities of the Trade Union prepared in such form and containing such particulars as may be prescribed

6. Provisions to be contained in the rules of a Trade Union.—A Trade Union shall not be entitled to registration under this Act, unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely —

- (a) the name of the Trade Union,
- (b) the whole of the objects for which the Trade Union has been established,
- (c) the whole of the purposes for which the general funds of the Trade Union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act;
- (d) the maintenance of a list of the members of the Trade Union and adequate facilities for the inspection thereof by the officers and members of the Trade Union;
- (e) the admission of ordinary members who shall be persons actually engaged or employed in any industry with which the Trade Union is connected, and also the admission of the number of honorary or temporary

members as officers required under section 22 to form the executive of the Trade Union ;

- (f) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members ;
- (g) the manner in which the rules shall be amended, varied rescinded ;
- (h) the manner in which the members of the executive and the other officers of the Trade Union shall be appointed and removed ;
- (i) the safe custody of the funds of the Trade Union, an annual audit in such manner as may be prescribed, of the accounts thereof, and adequate facilities for the inspection of the account books by the officers and members of the Trade Union ; and
- (j) the manner in which the Trade Union may be dissolved.

7. Power to call for further particulars and to require alteration of name.—(1) The Registrar may call for further information for the purpose of satisfying himself that any application complies with the provisions of section 5, or that the Trade Union is entitled to registration under section 6, and may refuse to register the Trade Union until such information is supplied.

(2) If the name under which a Trade Union is proposed to be registered as identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall require the persons applying for registration to alter the name of the Trade Union stated in the application, and shall refuse to register the Union until such alteration has been made.

8. Registration.—The Registrar, on being satisfied that the Trade Union has complied with all the requirements of this Act in regard to registration, shall register the Trade Union by entering in a register, to be maintained in such form as may be prescribed, the particulars relating to the Trade Union contained in the statement accompanying the application for registration.

9. Certificate of registration.—The Registrar, on registering a Trade Union under section 8, shall issue a certificate of registra-

tion in the prescribed form which shall be conclusive evidence that the Trade Union has been duly registered under this Act.

10. Cancellation of registration.—A certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar—

- (a) on the application of the Trade Union to be verified in such manner as may be prescribed, or
- (b) if the Registrar is satisfied that the certificate has been obtained by fraud or or mistake, or that the Trade Union has ceased to exist or has wilfully and after notice from the Registrar contravened any provision of this Act or allowed any rule to continue in force which is inconsistent with any such provision or has rescinded any rule providing for any matter provision for which is required by section 6.

Provided that not less than two months' previous notice in writing specifying the ground on which it is proposed to withdraw or cancel the certificate shall be given by the Registrar to the Trade Union before the certificate is withdrawn or cancelled otherwise than on the application of the Trade Union.

¹[**11. Appeal.**—(1) Any person aggrieved by any refusal of the Registrar to register a Trade Union or by the withdrawal or cancellation of a certificate of registration may, within such period as may be prescribed, appeal—

- (a) where the head office of the Trade Union is situated within the limits of a Presidency-town^{2*}, to the High Court, or
- (b) where the head office is situated in any other area, to such Court, not inferior to the Court of an additional or assistant Judge of a principal Civil Court of original jurisdiction, as the ³[appropriate Government] may appoint in this behalf for that area.

(2) The appellate Court may dismiss the appeal, or pass an order directing the Registrar to register the Union and to issue a certificate of registration under the provisions of section 9 or setting

¹ This section was substituted by s 2 of the Indian Trade Unions (Amendment) Act, 1928 (XV of 1928).

² The words "or of Rangoon" were omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.

³ These words were substituted for the words "Local Government", *ibid*

aside the order for withdrawal or cancellation of the certificate, as the case may be, and the Registrar shall comply with such order

(3) For the purpose of an appeal under sub-section (1) an appellate Court shall, so far as may be, follow the same procedure and have the same powers as it follows and has when trying a suit under the Code of Civil Procedure, as it follows and has when trying under the Code of Civil Procedure, 1908 (V of 1908) and may direct by whom the whole or any part of the cost of the appeal shall be paid and such cost shall be recovered as if they had been awarded in a suit under the said Code.

(4) In the event of the dismissal of an appeal by any Court appointed under clause (b) of sub-section (1), the person aggrieved shall have a right of appeal to the High Court, and the High Court shall, for the purpose of such appeal, have all the powers of an appellate Court under sub-sections (2) and (3), and the provisions of those sub-sections shall apply accordingly.]

12. Registered office.—All communications and notices to a registered Trade Union may be addressed to its registered office. Notice of any change in the address of the head office shall be given within fourteen days of such change to the Registrar in writing, and the changed address shall be recorded in the register referred to in section 8.

13. Incorporation of Registered Trade Unions.—Every registered Trade Union shall be a body corporate by the name under which it is registered, and shall have perpetual succession and a common seal with power to acquire and hold both moveable and immoveable property and to contract and shall by the said name sue and be sued.

14. Certain Acts not to apply to registered Trade Unions.—The following Acts, namely :—

(a) The Societies Registration Act, 1860 (XXI of 1860)

(b) The Co-operative Societies Act, 1912 (II of 1912),

1*

and

(c) The Indian Companies Act, 1913 (VII of 1913),

shall not apply to any registered Trade Union, and the registration of any such Trade Union under any such Act shall be void.

¹ Clauses (c) and (d) were repealed by s. 2 and Schedule I of the Repealing and Amending Act, 1942 (XXXV of 1942).

CHAPTER III

RIGHTS AND LIABILITIES OF REGISTERED 'TRADE UNIONS

15. Objects on which general funds may be spent.—The general funds of a registered Trade Union shall not be spent on any other objects than the following, namely —

(a) the payment of salaries, allowances and expenses to officers of the Trade Union ;

(b) the payment of expenses for the administration of the Trade Union, including audit of the accounts of the general funds of the Trade Union ;

(c) the prosecution or defence of any legal proceeding to which the Trade Union or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any right, of the Trade Union as such or any rights arising out of the relations of any member with his employer or with a person whom the member employs ,

(d) the conduct of trade disputes on behalf of the Trade Union or any member thereof,

(e) the compensation of members for loss arising out of trade disputes ;

(f) allowances to members or their dependants on account of death, old age, sickness, accidents or unemployment of such members ;

(g) the issue of, or the undertaking of liability under, policies of assurance on the lives of members, or under policies insuring members against sickness, accident or unemployment ,

(h) the provision of educational, social or religious benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members) or for the dependants of members ;

(i) the upkeep of a periodical published mainly for the purpose of discussing questions affecting employers or workmen as such ;

(j) the payment, in furtherance of any of the objects on which the general funds of the Trade Union may be spent, of contributions to any cause intended to benefit workmen in general, provided that the expenditure in respect of such contributions in any financial year shall not at any time during that year be in excess of one-fourth of the combined total of the gross income which has

up to that time accrued to the general funds of the Trade Union during that year and of the balance at the credit of those funds at the commencement of that year ; and

(k) subject to any conditions contained in the notification, any other object notified by the ¹[appropriate Government] in the ²[official Gazette].

16. Constitution of a separate fund for political purposes.—

(1) A registered Trade Union may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of any of the objects specified in sub-section (2).

(2) The objects referred to in sub-section (1) are :—

(a) the payment of any expenses incurred, either directly or indirectly, by a candidate or prospective candidate for election as a member of any legislative body constituted under the Government of India Act, ³[or the Government of India Act, 1935,] or of any local authority, before, during or after the election in connection with his candidature or election ; or

(b) the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate ; or

(c) the maintenance of any person who is a member of any legislative body constituted under the Government of India Act, ³[or the Government of India Act, 1935] or for any local authority ; or

(d) the registration of electors or the selection of a candidate for any legislative body constituted under the Government of India Act, ³[or the Government of India Act, 1935,] or for any local authority ; or

(e) the holding of political meetings of any kind or the distribution of political literature or political documents of any kind.

(3) No member shall be compelled to contribute to the fund constituted under sub-section (1) ; and a member who does not contribute to the said fund shall not be excluded from any benefits of

¹ These words were substituted for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were substituted for the words "Gazette of India", *ibid*.

³ These words and figures were inserted, *ibid*.

the Trade Union, or placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the Trade Union (except in relation to the control or management of the said fund) by reason of his not contributing to the said fund ; and contribution to the said fund shall not be made a condition for admission to the Trade Union.

17. Criminal conspiracy in trade disputes.—No officer or member of a registered Trade Union shall be liable to punishment under sub-section (2) of section 120B of the Indian Penal Code (XLV of 1860), in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union as is specified in section 15, unless the agreement is an agreement to commit an offence

18. Immunity from civil suit in certain cases.—(1) No suit or other legal proceedings shall be maintainable in any Civil Court against any registered Trade Union or any officer or member thereof in respect of any act done in contemplation or furtherance of a trade dispute to which a member of the Trade Union is a party on the ground only that such act induces some other person to break a contract of employment, or that it is interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(2) A registered Trade Union shall not be liable in any suit or other legal proceedings in any Civil Court in respect of any tortious act done in contemplation or furtherance of a trade dispute by an agent of the Trade Union if it is proved that such person acted without the knowledge of or contrary to express instructions given by, the executive of the Trade Union.

19. Enforceability of agreements.—Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered Trade Union shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade :

Provided that nothing in this section shall enable any Civil Court to entertain any legal proceedings instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any members of a Trade Union shall or shall not sell their goods, transact business, work, employ or be employed.

20. Right to inspect books of Trade Union.—The account books of a registered Trade Union and the list of members thereof shall be open to inspection by an officer or member of the Trade Union at such times as may be provided for in the rules of the Trade Union

21. Rights of minors to membership of Trade Unions.—Any person who has attained the age of fifteen years may be a member of a registered Trade Union subject to any rules of the Trade Union to the contrary, and may, subject as aforesaid, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules

Provided that no person who has not attained the age of eighteen years shall be an officer of any such Trade Union

22. Proportion of officers to be connected with the industry.—Not less than one-half of the total number of the officers of every registered Trade Union shall be persons actually engaged or employed in an industry with which the Trade Union is connected

Provided that the ¹[appropriate Government] may, by special or general order, declare that the provisions of this section shall not apply to any Trade Union or class of Trade Unions specified in the order.

23. Change of name.—Any registered Trade Union may, with the consent of not less than two-thirds of the total number of its members and subject to the provisions of section 25, change its name.

24. Amalgamation of Trade Unions.—Any two or more registered Trade Unions may become amalgamated together as one Trade Union with or without dissolution or division of the funds of such Trade Unions or either or any of them, provided that the votes of at least one-half of the members of each or every such Trade Union entitled to vote are recorded, and that at least sixty per cent of the votes recorded are in favour of the proposal.

25. Notice of change of name or amalgamation.—(1) Notice in writing of every change of name and of every amalgamation, signed, in the case of a change of name, by the Secretary and by seven members of the Trade Union changing its name, and, in the

¹ These words were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

case of an amalgamation, by the Secretary and by seven members of each and every Trade Union which is a party thereto, shall be sent to the Registrar, and where the head office of the amalgamated Trade Union is situated in a different province, to the Registrar of such province.

(2) If the proposed name is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall refuse to register the change of name.

(3) Save as provided in sub-section (2), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name in the register referred to in section 8 and the change of name shall have effect from the date of such registration.

(4) The Registrar of the province in which the head office of the amalgamated Trade Union is situated shall, if he is satisfied that the provisions of this Act in respect of amalgamation have been complied with and that the Trade Union formed thereby is entitled to registration under section 6, register the Trade Union in the manner provided in section 8, and the amalgamation shall have effect from the date of such registration.

26. Effects of change of name and of amalgamation.—

(1) The change in the name of a registered Trade Union shall not affect any rights or obligations of the Trade Union or render defective any legal proceeding by or against the Trade Union, and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

(2) An amalgamation of two or more registered Trade Unions shall not prejudice any right of any of such Trade Unions or any right of a creditor of any of them.

27. Dissolution.—(1) When a registered Trade Union is dissolved, notice of the dissolution signed by seven members and by the Secretary of the Trade Union shall, within fourteen days of the dissolution, be sent to the Registrar, and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the Trade Union, and the dissolution shall have effect from the date of such registration.

(2) Where the dissolution of a registered Trade Union has been registered and the rules of the Trade Union do not provide for the distribution of funds of the Trade Union on dissolution, the Registrar shall divide the funds amongst the members in such manner as may be prescribed.

28. Returns.—(1) There shall be sent annually to the Registrar, on or before such date as may be prescribed, a general statement, audited in the prescribed manner, of all receipts and expenditure of every registered Trade Union during the year ending on the 31st day of March next preceding such prescribed date, and of the assets and liabilities of the Trade Union existing on such 31st day of March. The statement shall be prepared in such form and shall comprise such particulars as may be prescribed

(2) Together with the general statement there shall be sent to the Registrar a statement showing all changes of officers made by the Trade Union during the year to which the general statement refers, together also with a copy of the rules of the Trade Union corrected up to the date of the despatch thereof to the Registrar.

(3) A copy of every alteration made in the rules of a registered Trade Union shall be sent to the Registrar within fifteen days of the making of the alteration.

¹[CHAPTER IIIA.

RECOGNITION OF TRADE UNIONS.

28A. Modification of the definition of “appropriate Government” for certain purposes.—Notwithstanding anything to the contrary in the definition of “the appropriate Government” in section 2, the Central Government shall be deemed to be the appropriate Government for the purposes of this Chapter in respect of Trade Unions consisting of workmen employed by the Central Government or by a Federal Railway or in a major port, mine or oilfield.

Explanation.—In this section and for the purposes of this Chapter, a Trade Union of which not less than fifty per cent. of the members are workmen employed by the Central Government or by a Federal Railway or in a major port, mine or oilfield shall be deemed

¹ This Chapter was inserted by s. 4 of Indian Trade Unions (Amendment) Act, 1947 (XLV of 1947).

to be a Trade Union consisting of workmen employed by the Central Government or by a Federal Railway or in the major port, mine or oilfield as the case may be.

28B. Appointment, constitution, powers and procedure of Labour Courts.—(1) For the purposes of this Chapter, the appropriate Government shall appoint such number of Labour Courts as it considers necessary, consisting of one or more persons each of whom—

(a) is, or has been, a Judge of a High Court or a District Judge, or

(b) is qualified for appointment as a Judge of a High Court :

Provided that the appointment to a Labour Court of any person not qualified under clause (a) shall be made in consultation with the High Court of the Province in which the Labour Court has or is intended to have, its usual place of sitting.

(2) Every Labour Court shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, and compelling the discovery and production of documents, and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (V of 1898).

(3) The proceedings of Labour Courts shall be regulated and conducted in such manner as may be prescribed.

28C. Recognition by agreement.—(1) Where an employer agrees to recognize a Trade Union, a memorandum of agreement signed by the employer and the officers of the Trade Union, or their authorised representatives, may be presented to the Registrar who shall record the memorandum in a register in the prescribed manner

(2) Such an agreement may be revoked by either party thereto on application made to the Registrar in the prescribed manner

(3) While such an agreement is in force, the Trade Union shall, in its relations with the employer with whom the agreement is made, have all the rights of a recognized Trade Union under this Act, and shall for all other purposes be deemed to be a recognized Trade Union.

28D. Conditions for recognition by order of a Labour Court.—A Trade Union shall not be entitled to recognition by order

of a Labour Court under section 28E unless it fulfils the following conditions, namely —

- (a) that all its ordinary members are workmen employed in the same industry or in industries closely allied to or connected with one another,
- (b) that it is representative of all the workmen employed by the employer in that industry or those industries,
- (c) that its rules do not provide for the exclusion from membership of any class of the workmen referred to in clause (b),
- (d) that its rules provide for the procedure for declaring a strike,
- (e) that its rules provide that a meeting of its executive shall be held at least once in every six months,
- (f) that it is a registered Trade Union, and that it has complied with all the provisions of this Act;

Provided that the reference in clause (b) to "the employer" shall as respects recognition by an association of employers, be construed as a reference to all the employers who are members of the association

28E. Application to, and grant of recognition by, Labour Courts.—(1) Where a registered Trade Union having applied for recognition to an employer has failed to obtain recognition within a period of three months from the date of making such application, it may apply in writing, setting out such particulars as may be prescribed, to the Labour Court for recognition by that employer

(2) A single application may be made under sub-section (1) for recognition—

- (a) by more than one employer, or
- (b) by an association of employers as well as one or more members thereof.

(3) The Labour Court may call for further information for the purpose of ascertaining whether the Trade Union is entitled to recognition by the employer under this section, and if the Trade Union fails to supply the required information within the time granted, the Labour Court may dismiss the application.

(4) The Labour Court shall, after serving notice in the prescribed manner on the employer, investigate whether the Trade Union fulfils the conditions for recognition set out in section 28D, and in deciding whether the condition set out in clause (b) thereof is fulfilled, the Labour Court shall have regard to, but shall not be bound by

the fact whether the proportion which the number of the workmen referred to in the said clause who are members of the Trade Union and are not in arrears of their subscription for any period exceeding three months, bears to the total number of such workmen is less, or not less, than such percentage, if any, as may be prescribed in this behalf, either generally, or in respect of any particular locality or any particular employer or class of employers, or any particular industry or class of industries.

(5) If the Labour Court is satisfied that the Trade Union is fit to be recognized by the employer, it shall make an order directing such recognition and may, where the recognition is to be by an association of employers, further direct, by the same or a subsequent order, recognition by every member of the association in relation to whom the Trade Union fulfils the condition set out in clause (b) of section 28D.

(6) Every order made under sub-section (5) shall be forwarded to the appropriate Government which shall notify it in the official Gazette, and while a recognition directed by such order is in force the Trade Union shall, in its relations with the employer concerned, have all the rights of a recognized Trade Union under this Act and shall for all other purposes be deemed to be a recognized Trade Union.

28F. Rights of recognized Trade Unions.—(1) The executive of a recognized Trade Union shall be entitled to negotiate with employers in respect of matters connected with the employment or non-employment or the terms of employment or the conditions of labour of all or any of its members, and the employer shall receive and send replies to letters sent by the executive on, and grant interviews to that body regarding, such matters.

(2) Nothing in sub-section (1) shall be construed as requiring an employer to send replies to letters on, or grant interviews regarding matters on which, as a result of previous discussion with the executive of the Trade Union, the employer has arrived at a conclusion, whether in agreement with the executive or not, unless a period of at least three months has elapsed since the said conclusion was intimated to the executive, or unless there has been a change in circumstances.

(3) Any dispute between the employer and the executive of a recognized Trade Union as to whether a conclusion has been arrived at, or whether there has been a change in circumstances, within the

meaning of sub-section (2), shall be referred to the Registrar whose decision shall be final.

(4) The executive of a recognized Trade Union shall be entitled to display notices of the Trade Union in any premises where its members are employed, and the employer shall afford the executive reasonable facilities for that purpose.

28G. Withdrawal of recognition.—(1) Where the recognition of a Trade Union has been directed under section 28E, the Registrar or the employer may apply in writing to the Labour Court for withdrawal of the recognition on any of the following grounds, namely :—

- (a) that the executive or the members of the Trade Union have committed any unfair practice set out in section 28J within three months prior to the date of the application ;
- (b) that the Trade Union has failed to submit any return referred to in section 28I ,
- (c) that the Trade Union has ceased to be representative of the workmen referred to in clause (b) of section 28D.

(2) On receipt of an application under sub-section (1) the Labour Court shall, unless it thinks fit to dismiss the application summarily, serve notice in the prescribed manner on the Trade Union to show cause why its recognition should not be withdrawn.

(3) If after giving a reasonable opportunity to the Trade Union to show cause the Labour Court is satisfied that the Trade Union is no longer fit to be recognized, it shall make an order declaring that the recognition of the Trade Union has been withdrawn, and forward a copy of the order to the appropriate Government which shall notify it in the official Gazette.

28H. Application for fresh recognition.—On the expiry of not less than six months from the date of withdrawal of recognition of a Trade Union under sub-section (3) of section 28G, the Trade Union, if it continues to be a registered Trade Union, may again apply for recognition, and the procedure laid down in this Act shall apply in respect of such application as if it were an original application for recognition.

28I. Recognized Trade Unions to submit prescribed returns.—Every Trade Union recognized under section 28E shall submit to the Registrar at the prescribed time and in the prescribed manner such

returns, in addition to those referred to in section 28, as may be prescribed]

¹[CHAPTER III-B.

UNFAIR PRACTICES

28J. Unfair practices by recognized Trade Unions.—The following shall be deemed to be unfair practices on the part of a recognized Trade Union, namely :—

- (a) for a majority of the members of the Trade Union to take part in an irregular strike ;
- (b) for the executive of the Trade Union to advise or actively to support or to instigate an irregular strike ;
- (c) for an officer of the Trade Union to submit any return required by or under this Act containing false statements.

28K. Unfair practices by employers.—The following shall be deemed to be unfair practices on the part of an employer, namely :—

- (a) to interfere with, restrain, or coerce his workmen in the exercise of their rights to organise, form, join or assist a Trade Union and to engage in concerted activities for the purpose of mutual aid or protection ;
- (b) to interfere with the formation or administration of any Trade Union or to contribute financial or other support to it ;
- (c) to discharge, or otherwise discriminate against, any officer of a recognized Trade Union because of his being such officer ;
- (d) to discharge or otherwise discriminate against any workman because he has made allegations or given evidence in an inquiry or proceeding relating to any matter such as is referred to in sub-section (1) of section 28F ;
- (e) to fail to comply with the provisions of section 28F

Provided that the refusal of an employer to permit his workmen to engage in Trade Union activities during their hours of work shall not be deemed to be an unfair practice on his part.]

¹ This Chapter was inserted by s. 4 of Indian Trade Unions (Amendment) Act, 1947 (XLV of 1947)

CHAPTER IV

REGULATIONS

29. Power to make regulations.—(1) ¹ , the ²[appropriate Government] may make regulations for the purpose of carrying into effect the provisions of this Act

³[Provided that the making of regulations under this section for the purpose of carrying into effect the provisions of Chapter III-A shall be deemed to be a purpose of that Chapter within the meaning of section 28A]

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

(a) the manner in which Trade Unions and the rules of Trade Unions shall be registered and the fees payable on registration ,

(b) the transfer of registration in the case of any registered Trade Union which has changed its head office from one province to another ,

(c) the manner in which, and the qualifications of persons by whom, the accounts of registered Trade Unions or of any class of such Unions shall be audited.

(d) the conditions subject to which inspection of documents kept by Registrars shall be allowed and the fees which shall be chargeable in respect of such inspections ; and

(e) any matter which is to be or may be prescribed

⁴ [(3) The Central Government may give directions to a Provincial Government as to the regulations to be made under this section for prescribing the percentages referred clear to in sub-section (4) of section 28E]

30. Publication of Regulations.—(1) The power to make regulations conferred by section 29 is subject to the condition of the regulations being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), as that

¹ The words "Subject to the control of the Governor General in Council" were omitted by the Government of India (Adaptation of Indian Laws) Order, 1937

² These words were substituted for the words "Local Government", *ibid*

³ This proviso was added by s. 5 of Indian Trade Union (Amendment) Act, 1947 (XLV of 1947).

⁴ Thus Sub-section was added by s. 5, *ibid*.

after which a draft of regulations proposed to be made will be taken into consideration shall not be less than three months from the date on which the draft of the proposed regulations was published for general information.

(3) Regulations so made shall be published in the '[official Gazette]', and on such publication shall have effect as if enacted in this Act.

CHAPTER V

PENALTIES AND PROCEDURE

31. Failure to submit returns. —(1) If default is made on the part of any registered ²[or recognized] Trade Union in giving any notice or sending any ³[statement, return] or other document as required by or under any provision of this Act, every officer or other person bound by the rules of the Trade Union to give or send the same, or, if there is no such officer or person, every member of the executive of the Trade Union, shall be punishable with fine which may extend to five rupees and, in the case of a continuing default, with an additional fine which may extend to five rupees for each week after the first during which the default continues :

Provided that the aggregate fine shall not exceed fifty rupees

(2) Any person who wilfully makes, or causes to be made, any false entry in, or any omission from, the general statement required by section 28, or in or from any copy of rules or of alterations of rules sent to the Registrar under that section ²[or in or from any return referred to in section 28I] shall be punishable with fine which may extend to five hundred rupees.

32. Supplying false information regarding Trade Unions.—Any person who with intent to deceive, gives to any member of a registered Trade Union or to any person intending or applying to become a member of such Trade Union any document purporting to be a copy of the rules of the Trade Union or of any alterations to the same which he knows, or has reason to believe, is not a correct

¹ These words were substituted for the words "Local official Gazette" by the Government of India (Adaptation of Indian Laws) Order, 1937.

² These words were inserted by s 6 of Indian Trade Unions (Amendment) Act, 1947 (XLV of 1947).

³ These words were substituted for the word "Statement" by s 6, *ibid*

copy of such rules or alterations as are for the time being in force, or any person who with the like intent, gives a copy of any rules of an unregistered Trade Union to any person on the pretence that such rules are the rules of a registered Trade Union, shall be punishable with fine which may extend to two hundred rupees.

¹[**32A. Penalty for unfair practices.**—(1) Any employer who commits any unfair practice set out in section 28K shall be punishable with fine which may extend to one thousand rupees

(2) Where a Criminal Court imposes a fine, or confirms in appeal, revision or otherwise a sentence of fine imposed, on an employer for committing an unfair practice set out in clause (c) or clause (d) of section 28K, it may, when passing judgment, order the whole or any part of the fine to be applied in the payment to any person of compensation for loss or injury caused by the unfair practice.]

33. Cognizance of offences.—(1) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

(2) No Court shall take cognizance of any offence under this Act, unless complaint thereof has been made by or with the previous sanction of, the Registrar or, in the case of an offence under section 32, by the person to whom the copy was given, within six months of the date on which the offence is alleged to have been committed

CENTRAL TRADE UNION REGULATIONS, 1938

Contents

1. Title and application.
2. Definitions.
3. Application for registration.
4. Register of Trade Unions.
5. Certificates of registration.
6. Cancellation of registration.
7. Unions registered with Provincial Registrars.
8. Fees.
9. Amendment of rules.
10. Appeals.

¹ This Section was inserted by s. 7 of the Indian Trade Unions (Amendment) Act, 1947 (XLV of 1947).

11. Funds of a dissolved Trade Union
 12. Return.
 13. Auditors
 14. Exception.
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 16. Audit of political funds.
 17. Inspection.
- Forms.

CENTRAL TRADE UNION REGULATIONS, 1938¹.

In exercise of the powers conferred by section 29 of the Indian Trade Unions Act, 1926 (XVI of 1926), and by the said section of the said Act as in force in Berar, the Central Government is pleased, in relation to Trade Unions whose objects are not confined to one Province, to make the following regulations, the same having been previously published as required by sub-section (1) of section 30 of the said Act, namely —

1. *Title and application* —(1) These regulations may be called the Central Trade Union Regulations, 1938

(2) The regulations apply to trade unions whose objects are not confined to one Province.

2. *Definitions*.—In these regulations—

(a) “the Act” means the Indian Trade Unions Act, 1926

(b) “Form” means a form appended to these regulations.

(c) “Section” means a section of the Act.

3. *Application for registration*.—Every application for registration of a Trade Union shall be made in form A.

4. *Register of Trade Unions*.—The Register of Trade Unions referred to in section 8 shall be maintained in form B.

5. *Certificates of registration*.—(1) The certificate of registration issued by the Registrar under section 9 shall be in form C.

(2) When the Registrar registers a change of name under section 25, sub-section (3), he shall certify under his signature at the foot of the certificate on its presentation to him by the Secretary that the new name has been registered.

6. *Cancellation of Registration*.—The Registrar on receiving an application for the cancellation of registration shall, before granting

¹ These Regulations were published under Notification No. L—1785, dated the 16th June, 1938.

the application, satisfy himself that the withdrawal or cancellation of registration was approved by a general meeting of the Trade Union, or if it was not so approved, that it has the approval of the majority of the members of the Trade Union. For this purpose, he may call for such further particulars as he may deem necessary and may examine any officer of the Union

7. Unions registered with Provincial Registrars.—If the application is made by a Trade Union which has previously been registered by the Registrar of any Province the union shall submit with its application a copy of the certificate of registration granted to it and copies of the entries relating to it in the Register of Trade Unions for the Province.

8. Fees.—The fee payable for the registration of a Trade Union shall be Rs. 5.

9. Amendment of rules.—(1) On receiving a copy of an alteration made in the rules of a Trade Union under section 28 (3), the Registrar, unless he has reason to believe that the alteration has not been made in the manner provided by the rules of the Trade Union, shall register the alteration in a register to be maintained for this purpose and shall notify the fact that he has done so to the Secretary of the Trade Union.

(2) The fee payable for registration of alteration of rules shall be Re. 1 for each set of alterations made simultaneously.

10. Appeals.—Any appeal made under section 11 (1) of the Act must be filed within sixty days of the date on which the Registrar passed the order against which the appeal is made.

11. Funds of a dissolved Trade Union.—Where it is necessary for the Registrar, under section 27 (2) to distribute the funds of a Trade Union which has been dissolved, he shall divide the funds in proportion to the amounts contributed by the members by way of subscription during their membership.

12. Return.—The annual return to be furnished under section 28 shall be submitted to the Registrar by the 31st day of July in each year and shall be in form D.

13. Auditors.—(1) Save as provided in sub-clauses (2), (3), (4) and (5) of this regulation, the annual audit of the accounts of any registered Trade Union shall be conducted by an auditor authorized to audit the accounts of companies under section 144 (1) of the Indian Companies Act, 1913 or under section 3 (2) of the Indian Companies (Amendment) Act, 1930.

(2) Where the membership of a Trade Union did not at any time during the financial year exceed 2,500 the annual audit of the accounts may be conducted—

- (a) by any examiner of local fund accounts, or
- (b) by any local fund auditor appointed by the Provincial Government, or
- (c) by any person, who, having held an appointment under Government in any audit or accounts department, is in receipt of a pension of not less than Rs 200 per mensem

(3) Where the membership of a Trade Union did not at any time during the financial year exceed 750, the annual audit of the accounts may be conducted—

- (a) By any two persons holding office as magistrates or judges or as members of any municipal council, district board, or legislative body, or
- (b) by any person, who, having held an appointment under Government in any audit or accounts department, is in receipt of a pension from Government of not less than Rs 75 a month, or
- (c) by any auditor appointed to conduct the audit of any Co-operative societies by Government or by the Registrar of Co-operative Societies or by any Provincial Co-operative organization recognized by Government for this purpose.

(4) Where the membership of a Trade Union did not at any time during the financial year exceed 250, the annual audit of the accounts may be conducted by any two members of the Union.

(5) Where the Trade Union is a federation of unions, and the number of unions affiliated to it at any time during the financial year did not exceed 50, 15 or 5, respectively, the audit of the accounts of the federation may be conducted as if it had not at any time during the year had a membership of more than 2500, 750 or 250, respectively

14. Exception—Notwithstanding anything contained in regulation 13, no person, who, at any time during the year, was entrusted with any part of the funds or securities belonging to the Trade Union shall be eligible to audit the accounts of that Union

15. Audit—The auditor or auditors appointed in accordance with the regulations shall be given access to all the books of the Trade Union and shall verify the annual return with the accounts and vouchers

relating thereto and shall thereafter sign the auditor's declaration appended to form D, indicating separately on that form under his signature or their signatures a statement showing in what respect he or they find the return to be incorrect, unvouched or not in accordance with the Act. The particulars given in this statement shall indicate :—

- (a) Every payment which appears to be unauthorized by the rules of the Trade Union or contrary to the provisions of the Act,
- (b) the amount of any deficiency or loss which appears to have been incurred by the negligence or misconduct of any person,
- (c) the amount of any sum which ought to have been but is not brought to account by any person.

16. *Audit of political funds.*—The audit of the political fund of a registered Trade Union shall be carried out along with the audit of the general account of the Trade Union and by the same auditor or auditors.

17. *Inspection.*—(1) The register of Trade Unions maintained in accordance with regulation 4 shall be open to inspection by any person on payment of a fee of annas eight.

(2) Any documents in the possession of the Registrar received from a registered Trade Union may be inspected by any member of that Union on payment of a fee of annas eight for each document inspected.

(3) Documents shall be open to inspection every day on which the office of the Registrar is open and within such hours as may be fixed for this purpose by the Registrar.

(4) The Registrar may supply a certified copy of any such document to a registered Trade Union or a member thereof on payment of annas twelve for the first two hundred words (or less) and annas six for every additional hundred words or fractional part thereof.

FORM A

APPLICATION FOR REGISTRATION OF TRADE UNION.

Dated the _____ *day of* _____ 19 .

1. We hereby apply for the registration of a trade union under the name of
2. The address of the head office of the Union is

- 3 The union came into existence on the day of 19
4 The union is a union of employers/workers engaged in the industry
(or profession)
5. The particulars required by section 5 (1) (c) of the Indian Trade Union
Act, 1926, are given in Schedule I.
6 The particulars given in Schedule II show the provision made in the
rules for the matters detailed in section 6 of the Indian Trade Unions Act,
1926
7. (To be struck out in the case of unions which have not been in existence
for one year before the date of application) The particulars required by
section 5 (2) of the Indian Trade Unions Act, 1926, are given in Schedule III
8 We have been duly authorized to make this application

	Signature	Occupation	Address
Signed	1		
	2		
	3		
	4		
	5		
	6		
	7		

To the Registrar of Central Trade Unions, Delhi

State here whether the authority was given by a resolution of a general meeting of the Union, if not what other way it was given

SCHEDULE I

LIST OF OFFICERS.

[illegible]

Note—Enter in this Schedule the names of all members of the executive of the Union, showing in column 1 the names of any posts held by them (*e.g.* President, Secretary, Treasurer etc) in addition to their offices as members of the executive.

SCHEDULE II

REFERENCE TO RULES

The numbers of the rules making provision for the several matters detailed in column 1 are given in column 2 below —

Matter	Number of rules
Name of union	
The whole of the objects for which the union has been established	
The whole of the purposes for which the general funds of the union shall be applicable	
The maintenance of a list of members.	
The facilities provided for the inspection of the list of members by officers and members.	
The admission of ordinary members	
The admission of honorary or temporary members	
The conditions under which members are entitled to benefits assured by the rules	
The conditions under which fines or forfeitures can be imposed or varied.	
The manner in which the rule shall be amended, varied or rescinded.	
The manner in which the members of the executive and the other officers of the union shall be appointed and removed.	
The safe custody of the funds	
The annual audit of the accounts.	
The facilities for the inspection of the account books by officers and members	
The manner in which the union may be dissolved	

SCHEDULE III

This need not be filled in if the Union came into existence less than one year before the date of application for registration)

Statement of Liabilities and Assets on the day of 19

Liabilities	Rs a p.	Assets	Rs a p.
Amount of general fund		Cash—	
Amount of political fund		In hands of Treasurer	
Loans from		In hands of Secretary	
Other liabilities (to be specified) ...		In hands of .	
		In the Bank . .	
		In the Bank	
		Securities as per list below	
		Unpaid subscriptions due . .	
		Loans to	
		Immovable property	
		Goods and furniture	
		Other assets (to be specified)	
Total Liabilities		Total Assets	..

LIST OF SECURITIES

Particulars	Nominal	Market value	In hands of
Signed 1.		5.	
2.		6.	
3.		7.	
4.			

FORM B

REGISTER OF TRADE UNIONS

Serial No.	Officers						
Name of Union							
Address of Head Office							
Date of registration.							
Number of application form List of members applying for registration	Year of entering on office	Name	Age of entry	Address	Occupation	Year of relinquishing office	Other offices held in addition to membership of executive, with dates
1.				5.			
2.				6.			
3.				7.			
4.							

FORM C

CERTIFICATE OF REGISTRATION OF TRADE UNION

No

It is hereby certified that the _____ has been
 registered under the Indian Trade Unions Act, 1926 this day of _____ 19 .

Seal

Registrar of Central Trade Unions.

FORM D

(Annual return prescribed under section 28 of the Indian Trade Unions Act, 1926, for the year ending 31st March, 19)

Name of Union

Registered Head Office.

Number of certificate of registration

Return to be made by Federations of Trade Unions This return need not be made by Federation of Trade Unions	Number of unions affiliated at beginning of year.
	Number of unions joining during the year.
	Number of unions disaffiliated at the end of year
	Number of members on books at the beginning of year
	Number of members admitted during the year (add)
	Together
	Number of members who left during the year (educt)
	Total number of members on books at the end of the year
	Males
	Females
	Number of members contributing to political fund

A copy of the rules of the Trade Union, corrected up to the date of despatch of this return, is appended

Dated the

Secretary.

STATEMENT OF LIABILITIES AND ASSETS ON THE DAY OF 19

Liabilities	Rs. a p.	Assets	Rs. a p.
Amount of General Fund		Cash—	
Amount of Political Fund		In hands of Treasurer	
Loans from—		In hands of Secretary	
		In hands of	
		In the Bank	
		In the Bank	
		Securities as per list below	
Debits due to—		Unpaid subscriptions due	
		Loans to—	
Other liabilities (to be specified)		Immovable property	
		Goods and furniture	
		Other assets (to be specified)	
Total Liabilities ..		Total Assets ..	

LIST OF SECURITIES

Particulars	Nominal value	Market value at date on which accounts have been made up	In hands of
-------------	---------------	--	-------------

Proceeds

GENERAL FUND ACCOUNTS

Income	Rs a p	Expenditure	Rs a p
Balance at beginning of year		Salaries, allowances and expenses of officers	
Contributions from members at per member		Salaries, allowances and expenses of establishment ..	
Donations		Auditors' fees	
Sale of periodicals, rules etc.		Legal expenses	
Interest on investments		Expenses in conducting trade disputes	
Income from miscellaneous sources (to be specified)		Compensation paid to members for loss arising out of trade disputes ..	
		Funeral, old age, sickness, unemployment benefits, etc.	
		Educational, social and religious benefits	
		Cost of publishing periodicals	
		Rents, rates and taxes	
		Stationery, printing and postage	
		Expenses incurred under section 15 (j) of the Indian Trade Unions Act, 1926 (to be specified)—	
		Other expenses (to be specified)—	
		Balance at the end of year	
TOTAL		TOTAL	

POLITICAL FUND ACCOUNT.

Balance at beginning of year	Rs a p	Payments made on objects specified in Section 16 (2) of the Indian Trade Unions Act, 1926 (to be specified)	Rs a p
Contributions from members at per member		Expenses of managements (to be specified)	
		Balance at the end of year	
TOTAL		TOTAL	

Treasurer

AUDITOR'S DECLARATION

The undersigned, having had access to all the books and accounts of the Trade Union and having examined the foregoing statements and verified the same as found to be correct, duly vouched and in accordance with the law, subject to the remarks, if any, appended hereto

Auditor

The following changes of officers have been made during the year —

Officers relinquishing office.

Name.	Office	Date of relinquishing office

INDIAN TRADE UNIONS RECOGNITION (CENTRAL) REGULATIONS, 1949, (DRAFT)¹

The following draft of certain Regulations which it is proposed to make in exercise of the powers conferred by section 29 of the Indian Trade Unions Act, 1926 (XVI of 1926), is published, as required by sub-section (1) of section 30 of the said Act, for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after the 30th April 1949

DRAFT REGULATIONS

Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the Central Government

1. Short title and application—(i) These Regulations may be called the Indian Trade Unions Recognition (Central) Regulations, 1949.

(ii) They shall apply to trade unions consisting of workmen employed by the Central Government or by a Federal Railway or in a major port, mine or oilfield

2. Definitions.—In these Regulations, unless there is anything repugnant in the subject or context—

(a) “Act” means the Indian Trade Unions Act, 1926 (XVI of 1926) ;

(b) “Court” means a Labour Court as constituted under section 28B of the Act ;

(c) “Form” means a form in the schedule to these Regulations,

(d) “Judge” means a person appointed to a Court under section 28B of the Act ;

(e) “President” means, if the Court consists of more than one judge, the judge so designated by the Central Government, or if the court consists of only one judge, such a judge.

3. Place and time of sittings of Court.—The sittings of a Court shall ordinarily be held at its official headquarters between the hours

¹ These Draft Regulations were published under Ministry of Labour Notification No. LR. 26 (39) dated the 25th January 1949. The Draft has not yet been finalised.

of 10 A.M. and 5 P.M. on full working days and 10 A.M. and 1 P.M. on Saturdays

Provided that the President may hold any sitting at any time and at any place outside the headquarters after giving due notice of the time and place to the parties concerned in such manner as he thinks fit

4. *Sittings to be public*—The sittings of a Court shall be held in public.

Provided that the President may at any stage direct that any witness shall be examined or any sittings shall be held *in camera*

5. *Casual vacancy in Court*—Where a Court consists of one or more Judges, the Court may, with the consent of the parties, act notwithstanding any casual vacancy in its number and no act, proceeding on determination of the Court shall be called in question or invalidated by reason of any such vacancy

6. *Procedure for Labour Courts*—Any application of the nature referred to in section 28E or 28G may be sent to the Court by registered post or be presented to the Court or to the Court-clerk, authorised by the Judge in this behalf and shall be made in duplicate

7. If on receiving the application it appears to the Court that it should be presented to another Court, the Judge shall return it to the applicant after endorsing upon it the date of the presentation and return, the reasons for returning it and the Court to which it should be presented

8. If an application is not in order by reason of any formal defect therein the Judge may return it to the applicant for remedying the defect within a specified time.

9. If the Judge thinks that an application may be fixed for preliminary hearing, he shall cause notice in form 'A' to be served on the applicant directing him to appear before him at the time and place mentioned therein to show cause why the application may not be summarily dismissed.

10. If any of the parties applies for determining certain preliminary issues, the Judge may proceed to determine such issues after issuing notice to the opposite party.

11. If an application is not summarily dismissed, the Judge shall cause notice in form 'B' to be given to the opponent directing him to file a written statement within a specified time.

12. After all the statements required to be filed by the parties are received or after the expiry of the date for filing the statements, the Judge shall give notice in form 'C' to the parties to appear before him at such time and place as may be mentioned therein.

13. If without good cause shown, any party to a proceeding before a Court fails to attend or to be represented, the Court may proceed as if the party had duly attended or had been represented.

14. *Representation by Counsel, attorney etc.*—(1) In any proceeding before the Court, the parties may appear in person or through any other person or by a duly authorised counsel, attorney, advocate, pleader or a representative as the case may be.

(2) Every person except a counsel authorised to appear shall file a memorandum of appearance in Form 'D' signed by the person authorising him.

15. *Summons to witnesses*—If an application is presented by any party to the proceeding for the citation of witnesses, the Court shall issue summons in Form 'E' for the appearance of such witnesses unless it considers that their appearance is not necessary for deciding the application.

16. Every summons, notice, warrant or other process and every order or certified copy of any document shall be signed by the Judge with the date of signing and shall be sealed with the official seal of the Court.

17. The service of every summons, notice, warrant or order shall be effected by hand delivery or through registered post as may be expedient or as provided in Order V in the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908)

18. *Powers of entry and inspection.*—The President or any Judge of a Court or any person authorised in writing by the President or a Judge of a Court in this behalf may, at any time between the hours of sunrise and sunset, enter after giving reasonable notice, any office, building, factory, workshop or other place or premises whatsoever and inspect the same or interrogate any person therein in respect of anything situated therein on any matter relevant to the subject matter under consideration before the Court.

19. *Decision by majority*—All questions arising for decision at any sitting of a Court, save where the Court consists of only one person, shall be decided by a majority of the votes of the Judges

thereof (including the President) present at the sitting. In the event of any equality of votes, the President shall have a casting vote.

20. Supply of copies of Court's order.—The Court shall send a certified copy of an order made by it to the parties concerned, to the Central Government and to the Registrar of Trade Unions of the Province in which the head office of the registered union or association of workers is located.

21. Correction of errors.—The Court may correct any clerical mistake or error arising from an accidental slip or omission in its order.

22. Memoranda of agreements to recognise a Trade Union.—The register of memoranda of agreements referred to in sub-section (1) of section 28C shall be given in Form 'F'. As soon as possible after recording the agreement in the register, the Registrar shall intimate the fact in writing to the parties concerned together with the serial number and the date of entry in the register.

23. Application for revocation of an agreement to recognise a Trade Union.—The application for revocation of an agreement to recognise a Trade Union under sub-section (2) of section 28C shall be in Form 'G'. A copy of that application shall be sent by the party making the application to the other party to the agreement. Not less than seven days after receipt of such an application, the Registrar shall note in the appropriate column in the register in Form 'F' that the agreement has been revoked and intimate the fact in writing to the parties concerned together with the date on which the revocation has been noted in the register.

24. Application to the Court for grant of recognition.—The application to the Court for grant of recognition under sub-section (1) of section 28E shall be made by the Union in quadruplicate in Form 'H' and shall be accompanied by—

- (i) as many spare copies as the number of employers from whom recognition is sought ;
- (ii) a duly attested copy of the rules of the Union as in force on the date of application ;
- (iii) a duly attested copy of the certificate of registration issued under section 9 ;
- (iv) if the union had been a 'Registered Trade Union' as defined in clause (j) of section 2 for more than one year

- on the 31st day of March preceding the date of application, a duly attested copy each of the statements sent to the Registrar under sub-section (1) of section 28 ,
- (i) if the union has not been a 'registered trade union' as defined in clause (j) of section 2 for more than one year on the 31st day of March preceding the date of application—
- (a) a duly authenticated statement of all its receipts and expenditure for the period of twelve months preceding the month in which the application is made, or if the union was not in existence for the twelve months, for the months during which it was in existence , and
 - (b) a duly authenticated statement of its assets and liabilities on the last day of the month preceding that in which the application is made ,
- (vi) a statement containing the following particulars—
- (a) the name of the union and the address of its registered office ;
 - (b) the industry or industries from which the membership of the union is drawn and the number of members on the rolls of the union employed in the industry or each of the industries concerned as the case may be, who are not in arrears of their subscription for any period exceeding three months on the last day of the month preceding that in which the application is made ;
 - (c) the number of members industry-wise, on the rolls of the union, who are not in arrears of their subscription for any period exceeding three months, on the last day of the month preceding that in which the application is made, in the employment of the employer or each of the employers, as the case may be, from whom recognition is sought ,
 - (d) the number of workers, industry-wise whether members of the Union or not, in the employment of the employer or each of the employers, as the case may be, from whom recognition is sought, on the last day of the month preceding that in which the

application is made (if the actual numbers are not known approximate numbers as far as are known to the union may be given) ; and

- (vi) a brief factual account of the efforts made by the union in the direction of achieving recognition by agreement with the employer and the results obtained, together with attested copies of relevant correspondence and documents. (if any).

25. *Record of Court's orders relating to the grant and withdrawal of recognition.*—The Registrar shall record the order made by the Court under sub-section (5) of section 28E in the register maintained in Form 'J'. The Registrar shall also cancel the relevant entries in the register in Form 'J' on receipt of an order of a Court withdrawing recognition of a Union under sub-section (3) of section 28G.

26. The notice to be served on a Trade Union under sub-section (2) of section 28G, shall be in Form "K"

27. For the purpose of sub-section (4) of section 28E the proportion of the number of workers referred to in clause (b) of section 28D who are members of the trade union and are not in arrears of their subscription for any period exceeding three months, to the total number of such workmen shall be as prescribed in the following statement :

(1)	(2)
Total number of workmen.	Membership of the union compared to the total number of workmen expressed a percentage
Up to 1,000	33½
1,000 and above but less than 2,500	25
2,500 and above but less than 5,000	20
5,000 and above but less than 10,000	15
10,000 and above but less than 25,000	12½
25,000 and above	10

28. Every recognised trade union shall, on or before the 20th day of every month, forward by a registered letter or present in person to the Registrar of the Trade Unions for the Province in which the headquarters of the union is located, a return in Form "L" giving the prescribed information for the previous month.

SCHEDULE

FORM A

(Notice of Preliminary hearing)
In the Labour Court at
No. of 19
In the matter of

NOTICE

Please take notice that the above matter will be taken up for hearing before me at on in You are hereby required to appear in person or through any other person or by a duly authorised counsel, advocate, attorney, pleader or a representative, as the case may be, at the aforesaid time and place and to show cause, if any, why the above matter should not be summarily dismissed

Seal

No.
Office of the Labour Court
day of 19

Judge,
Labour Court.

To

FORM B

(Notice to file written statement)
In the Labour Court at
Application No. of 19

(1) Address— Applicant(s)
versus

(2) Address— Opponent(s).

In the matter of

NOTICE

Whereas abovenamed has filed an application in this Court, a copy whereof is enclosed herewith, notice is hereby given to you that if you so desire, two copies of your written statement may be filed in this office on or before 19 and that a copy thereof may be supplied to the abovenamed and to inform the undersigned that this has been done.

2. The time and the place of hearing will be announced later
Seal

Judge,
Labour Court.

No.
Office of the Labour Court
day of 19

To

FORM C

(Notice of Hearing)

In the Labour Court at
 Application No of 19
 In the matter of

NOTICE

Whereas the above matter has been admitted to the file please take notice that the said matter will be taken up for hearing at or at such time immediately thereafter according to the convenience of the Court on in You are hereby required to appear in person or through any other person or by a duly authorised counsel, advocate, attorney, pleader or a representative, as the case may be, at the aforesaid time and place and to continue to remain present until the said matter has been finally disposed of and to produce before the said Court on those days all books, documents, etc, which may be in your possession or under your control and in any way relating to the matters in dispute and witnesses, if any

Seal

Judge,
 Labour Court

No
 Office of the Labour Court
 day of 19
 To

FORM D

(Memorandum of Appearance)

In the Labour Court at
 Application No of 19

In the matter of
 Address—

I/We have appointed Mr to appear for
 me/us in the above matter.

Dated this day of 19

Signature(s) of the employer or duly
 authorised representative(s) of the
 union.

Accepted
 (Signature)

FORM E

(Summons to Witness)

SUMMONS

In the Labour Court at

Whereas an application for recognition/withdrawal of recognition of _____ Union/Association has been filed before this Court under section 28E, 28G of the Indian Trade Unions Act, 1926 (XVI of 1926), as subsequently amended, you are hereby summoned to appear before this Court in person on the _____ day of _____ nineteen hundred and _____ at _____ O'Clock in the _____ noon to answer all material questions relating to the said dispute and you are directed to produce on that day all the books, papers, and other documents and things in your possession or under your control in any way relating to the matters in dispute before this Court

Seal

Office of the Labour Court

day of _____ 19____

Judge,
Labour Court

To

FORM F

Register of Memoranda of Agreements to recognise Trade Unions

Serial No.	Date of receipt in the Court	Place of agreement	Date of agreement	Parties to the agreement and name of representative	Conditions if any to which the agreement is subject	Period if any for which the agreement is valid	Reference to the file in which the agreement has been recorded in the office of the Registrar	Signature of the Registrar	Revoked	Signature of the Registrar
				Workmen	Employers			On application from	On (date)	

FORM G

Application for revocation of an agreement to recognise a Trade Union under
sub-section (2) of section 28-C

To

The Registrar of Trade Unions

Dated

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I, We, the undersigned on behalf of _____ hereby
request that the agreement for the recognition of
Union/Association bearing serial number _____ dated _____
in the Register of Memoranda of Agreements to recognise Trade Unions,
may be revoked for the reason(s) stated below _____

[2 This application is made in pursuance of a resolution (copy enclosed)
adopted unanimously by a majority at a meeting of the general/executive
body of the Union/Association held on the _____ day of _____
nineteen hundred and _____ at _____ under the
chairmanship of _____]

Signature

Name and Designation

Signature

Name and Designation

FORM H

Application for grant of recognition by a Labour Court under section 28-E

To

The Labour Court,

Dated

the

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WHEREAS attempts to secure recognition of the Union/Association by
agreement have not proved successful, and

WHEREAS three months have elapsed since the application for recognition
of the union was made to the employer(s),

I/We, on behalf of _____
Union/Association _____ hereby apply for an order
directing the employer(s) to recognise the Union/Association

The employer/employers concerned is/are —

(name and address _____

of the employer or _____

employers as the case may be _____)

* To be filled in only when the application is made on behalf of a
Union/Association.

The particulars prescribed under regulation 24 together with the required number of spare copies of this application (with enclosures) are appended

This application is made in pursuance of a resolution (copy enclosed) adopted unanimously by a majority at a meeting of the general/executive body of the Union/Association held on the _____ under the chairmanship of _____

Signature
Name and Designation
Signature
Name and Designation

FORM J

Record of Labour Court's Orders relating to grant of and withdrawal of Recognition

(Form of register for recording orders for recognition of the Labour Court)

Order made by the Labour Court at

Number and date of the order

Date of receipt of the order

Name of the Trade Union which has been granted recognition by the Order .

Name(s) of the employer/employers who has/have been directed to recognise the trade union

(Registrar of Trade Unions for the Province of).

FORM K

Notice to Trade Union under sub-section (2) of Section 28-G

In the Labour Court at

No _____ Dated _____ the _____

WHEREAS the Register of Trade Union _____ has applied to
(employer)

this Court for withdrawal of recognition of _____ Union/Association
for the reason(s) stated below —

You are hereby required to file a written statement (in quadruplicate), on or before the _____ day of _____, nineteen _____, hundred and _____, showing cause why the recognition should not be withdrawn.

The time and place of hearing will be announced intimated later.

Judge,
Labour Court

To

FORM L

(Return to be forwarded to the Registrar of Trade Unions
for the Province of _____)

(1) Name of the Union

(2) Address

(3) Registration No _____
Date of _____

(4) Name(s) of the employer/employers by whom recognised

(5) Date or dates of recognition _____

	Membership in the employ of the employer who has granted recognition	Total membership
Number of members as at the beginning of the month
Number of members who joined during the month
Number of persons who have ceased to be members during the month
Number of members at the end of the month

¹ If the union has been recognised by different employers on different dates.

(6) Rate or rates of subscription	
(7) Subscription collected during the month—	Rs. a p.
month	
For the current quarter . . . . .	...
half-year	
(8) account of arrears	
Total	_____

(8) The Date on which the meeting of the executive committee was held

(9) Interval(s) at which a meeting of the executive committee is required to be held according to the constitution

Date

Signature of President/Secretary
Union

INDUSTRIAL DISPUTE LEGISLATION

Early Legislation.

The growth of the industrial dispute legislation may be traced back as early as 1860 when at the instance of the Bombay Government, the Government of India passed the Employers and Workmen (Disputes) Act 1860 (X of 1860) providing for speedy and summary disposal by Magistrates of disputes concerning wages of workmen employed in railways, canals and other public works and making the breach of contract a criminal offence. The Act was repealed in 1932 by the Employers and Workmens (Disputes) Repealing Act, 1932 (11 of 1932).

Trade Disputes Act, 1929 (VI of 1929).

Prior to the first World War (1914-18), strike was a rare phenomenon in Indian industry and there were very few industrial disputes. Strikes appeared in violent forms after the war in 1920 and since then the strike fever was on the increase. In 1921 two Committees in Bengal and Bombay were appointed to investigate into the matter and to suggest remedial measures. The Bengal Committee suggested the formation of Joint Workers' Committees and opposed legislative measures and Government intervention. The

Bombay Committee advocated the establishment of Industrial Courts. The general mill strike in 1924 led the Bombay Government to introduce a Bill but its passage was withheld at the instance of the Government of India. On the model of the British Trade Disputes and Trade Unions Act 1927, the first Indian Trade Disputes Act was passed in 1929 (VI of 1929) with the object of providing a conciliation machinery to bring about peaceful settlement of industrial disputes and rendering lightning strikes in public utility concerns a punishable offence. The Act was brought into force on 7th May 1929.

Main Provisions of Trade Disputes Act, 1929.

The Act authorises the Central or Provincial Governments to establish two Tribunals e.g., the Board of Conciliation or the Court of Inquiry to investigate and settle a dispute when it arises or is apprehended. A Board shall consist of an independent Chairman with several members whereas a Court shall consist of one or more persons and have to report on specific matters referred to them. The ~~Act~~ contains provisions rendering punishable by fine or imprisonment lightning strikes or lock-outs without 14 days' notice in public utility concerns such as railways, postal, telegraph and telephone services, power, light or water-supplying services or any system of conservancy or sanitation and aims at prevention of political and general strikes on the lines of the British Act of 1927. Workers resorting to or inciting others to resort to illegal strikes are liable to be punished with 3 months' imprisonment or a fine of Rs 200/- or both. The Act was an experimental measure and was to remain in force for five years.

Trade Disputes (Amendment) Act, 1932 (XIX of 1932).

The Act was amended in 1932 with a view to rectify the defect under which persons serving on the Board of Conciliation or Court of Inquiry are exposed to prosecution regarding the disclosure of confidential information relating to trade unions or industrial undertakings.

Trade Disputes (Extending) Act, 1934 (XIII of 1934)

The Act was experimental for 5 years and was due to expire on 7th May 1934 and the above Act was passed after consultation with

Provincial Governments to make the original Act permanent and received assent on 28th April, 1934

Trade Disputes (Amendment) Act, 1938 (XI of 1938).

In order to give effect to the recommendations of the Royal Commission on Labour and in pursuance of an undertaking given in the Legislative Assembly in 1934, the Government of India introduced a Bill on 31st August 1936 to further amend the Trade Disputes Act 1929, with a view to enlarge the scope of the Act, which was passed in 1938. The Act authorises Central and Provincial Governments to appoint Conciliation Officers for mediating in or promoting the settlement of trade disputes. The Act extends trade disputes to include disputes between employers and employees or between workmen and workmen and includes water transport and tramways under public utility service. It also makes the provision concerning illegal strikes and lock-outs less restrictive.

Emergency Legislation regarding Industrial Disputes.

Several emergency measures were adopted by the Central Government concerning industrial disputes during the war. In January 1942, the Central Government added Rule 81A to the Defence of India Rules by a notification to restrain strikes and lock-outs. The new Rule empowered the Government (1) to make general or special order to prohibit strikes or lock-outs in connection with any trade dispute unless reasonable notice is given, (2) to refer any dispute to conciliation or adjudication, (3) to require employers to observe such terms and conditions as may be specified and (4) to enforce the decisions of the adjudicators. In May 1942, Provincial Governments were given similar powers under the Rule. In August 1942, the Central Government promulgated an order under this Rule prohibiting strikes or lock-outs without 14 days' previous notice. Strikes or lock-outs were also prohibited during the period the proceedings for conciliation or adjudication were pending and for two months thereafter. In April 1943, the Central Government further amended the Defence of India Rules prohibiting concerted cessation of work or refusal to work by a body of persons in establishments employing 100 or more persons unless it was in furtherance of a trade dispute.

Industrial Disputes Act, 1947 (XIV of 1947).

Rule 81A of the Defence of India Rules which empowered the Government to refer industrial disputes to adjudicators and to enforce their awards, was due to lapse on 1st October 1946 and was kept in force by the Emergency Powers (Continuance) Ordinance, 1946. A Bill was introduced by the Government of India in the Legislative Assembly on the 28th October 1946 embodying the essential principles of Rule 81A and retaining the provisions of Trade Disputes Act 1929, with a view to make provisions for investigation and settlement of industrial disputes. After the Select Committee's Report on the 3rd February 1947, with some amendments, the Bill was passed in March 1947 and became law from 1st April 1947 repealing the Trade Disputes Act, 1929.

First Legislation undertaken under the Five Year Labour Plan.

Under the Five-year Labour Programme, the Government of India, with a view to improve the existing industrial relations between the employers and the employees, has proposed to enact a fairly comprehensive legislation for avoiding strikes and lock-outs specially in public utility services and essential undertakings and providing machinery for peaceful settlement of industrial disputes and constituting joint works committees for enquiring into and settling individual grievances and day to day difficulties. The Industrial Disputes Act 1947 was the first legislative measure undertaken by the Government under the above Programme.

The Act introduced the principles of compulsory arbitration and prohibited strikes without notice in respect of public utility services mentioned in the Act. It also introduced two new institutions—(1) Works Committee consisting of the representatives of employers and employees and (2) Industrial Tribunals consisting of one or more members possessing qualifications ordinarily required for appointments as a High Court judge, for prevention and settlement of industrial disputes.

Important Provisions of the Act :—

(1) "appropriate Government" means—(i) in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government, by the Federal Railway authority or by a railway company operating a Federal Railway

or in relation to an industrial dispute concerning a mine, oilfield, or a major port, the Central Government, and (ii) in relation to any other industrial dispute, the Provincial Government ;

(2) The definitions of "industry" and "workman" have been made wide "Industry" means any business, trade, undertaking, manufacture or calling of employers, and includes any calling, service or employment, handicraft or industrial occupation or avocation of workmen "Workman" means any person employed (including an apprentice) in any industry to do any skilled or unskilled, manual or clerical work for hire or reward and includes for the purpose of any proceeding under this Act in relation to an industrial dispute, a workman discharged during that dispute

(3) "Public utility service" means (i) any railway service, (ii) any postal, telegraph or telephone service, (iii) industry supplying power, light or water to the public, (iv) public conservancy or sanitation, (v) any section of an industrial establishment, on the working of which the safety of the establishment or workmen employed therein depends, (vi) any of the following industry declared by the Government to be a public utility service for a specified period—
(a) Transport (other than railway) for the carriage of passengers or goods, by land, water, or air, (b) Coal, (c) Cotton textiles, (d) Food-stuffs and (e) Iron and steel.

(4) The Act retains the existing machinery of Boards of Conciliation and Courts of Inquiry and creates two new institutions—Works Committees and Industrial Tribunals for prevention and settlement of industrial disputes.

Works Committees.

Works Committees consist of representatives of employers and workmen and Industrial Tribunals consist of one or more members possessing qualifications ordinarily required for appointment as judges of a High Court The Act gives appropriate Government power to require the employer of industrial establishment employing 100 or more workmen to constitute a Works Committee consisting of equal number of representatives of employer and workmen engaged in the establishment, to be chosen in consultation with their registered trade union. The function of the Works Committee will be to remove the cause of friction between the employer and workmen in the day to day working of the establishment and to promote measures for securing and preserving good relations between them

Industrial Tribunals

A reference to the Industrial Tribunal can be made where both parties to an industrial dispute apply for such reference and where appropriate Government considers it expedient to do so. An award of the Tribunal will remain in force for such period, not exceeding one year, as may be fixed by the appropriate Government.

Conciliation Officers and Board of Conciliation

The Act gives statutory recognition to Conciliation Officers and serves to re-orient the administration of conciliation machinery provided in the Trade Disputes Act. Conciliation will be compulsory in all disputes in public utility service and optional in the case of other industrial establishments. Time limits have been prescribed to expedite the conciliation proceedings—14 days in the case of Conciliation Officer and 2 months in the case of Board of Conciliation from the date of notice of strike. A settlement arrived at in course of conciliation proceeding will be binding for such period as may be agreed upon by the parties and where no period has been agreed upon for a period of six months and will continue to be ~~binding~~ until revoked by two months' notice by either party to the dispute.

Court of Inquiry

The Court of Inquiry must report on the dispute to the appropriate Government within a period of six months from the commencement of enquiry.

(5) The Act prohibits strikes and lock-outs in public utility service (a) unless notice of strike or lock-out has been given within six weeks of the strike or lock-out, (b) within 14 days of giving such notice and (c) before the expiry of the date of strike notice. The special feature of the Act relates to the prohibition of strikes and lock-outs (1) during the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings, (2) during the proceedings before a Tribunal and two months after the conclusion of such proceedings and (3) during any period in which a settlement or award is in operation, in respect of any matters covered by the settlement or award. When a strike or lock-out is already in existence on the date of reference to conciliation or adjudication, the appropriate Government may prohibit its continuance. A strike or lock-out in contravention of the above is illegal.

The Act also prohibits financial aid to illegal strikes or lock-outs and the penalty for such aid is imprisonment for six months or a fine of Rs. 1000/- or both

(6) The Act prohibits the employers to alter, during the pendency of any conciliation proceedings or proceedings before a Tribunal in respect of any industrial dispute, the conditions of service of the workmen concerned or to discharge, dismiss or otherwise punish such workmen without the express permission in writing of the Conciliation Officer, Board or Tribunal, except for misconduct not connected with the dispute. Contravention is liable to imprisonment for 6 months or a fine of Rs. 1000/- or both.

(7) The Act also lays down penalty for illegal strikes and lock-outs and for instigating or inciting the same and also for breach of settlement or award

Actions taken under the Act.

Rules, orders and notifications under the Act requiring larger industrial establishments to set up Works Committees have been issued by the Central Government and Provincial Governments.

The coal industry in so far as it is concerned with the production and supply of coal and coke has been declared as a public utility service by the Central Government. Provincial Governments have also declared specified industries to be public utility services for specified periods.

The Central Government has vested the Chief Labour Commissioner, Regional Labour Commissioners and Conciliation Officers with statutory powers of conciliation in respect of all industries carried on by or under the authority of the Central Government by the Federal Railway or by a Railway Company operating a Federal Railway and for all mines, oilfields and major ports. The Chief Labour Commissioner's Organisation was strengthened. The Provincial conciliation machinery was also considerably strengthened.

The Central Government has set up two Standing Industrial Tribunals, one at Dhanbad to deal primarily with the disputes in coal mines and the other at Calcutta to deal primarily with disputes in the "Central Sphere" other than those in coal mines. Most of the Provincial Governments have also appointed permanent Industrial Tribunals for adjudication of industrial disputes, some has appointed Board of Conciliation for settlement of labour disputes. The Bombay

Government has set up Industrial Courts under the Bombay Industrial Relations Act (XI of 1947). The Government of West Bengal has nine officers of the rank of District Judges as Industrial Tribunals. Major Tribunals are constituted with three judges for each Tribunal for adjudication of disputes relating to following major industries — (1) jute mills, (2) engineering concerns, (3) cotton mills, (4) flour mills and (5) mercantile firms. In addition to these major Tribunals, disputes relating to individual concerns are transferred to Tribunal of one single judge each.

Provincial Legislations.

Some of the Provinces have adopted trade disputes laws to supplement the provisions of the Central Act

(1) BOMBAY

Bombay Trade Disputes Conciliation Act, 1934 (Bom. Act IX of 1934) provided for appointment of Labour Officers, Special Conciliators and authorised the Government to appoint Commissioner of Labour as the Chief Conciliator. The conciliation proceedings aimed at voluntary settlement of disputes. The Conciliators were empowered to institute conciliation proceedings on their initiative or on application of the parties and had power to summon the parties. The Act was repealed by the Bombay Industrial Disputes Act, 1938 (Bombay. Act XXV of 1938)

Bombay Industrial Disputes Act, 1938 (Bom. Act XXV of 1938) provides for an elaborate machinery for promotion of peaceful and amicable settlement of industrial disputes. The Act contains safeguards to prevent victimisation of workers by the employer for legitimate trade union activities. The Act requires employers to submit standing orders to the Commissioner of Labour regarding the conditions of employment. These standing orders cannot be changed without previous sanction. Strike or lock-out is illegal during the conciliation proceedings for settlement of these orders. The Act also contains provisions regarding trade unions and applies to registered unions. It divides unions into industrial unions and occupational unions and also registered unions, representative unions and qualified unions. The Act was amended in 1941 in order to make arbitration compulsory in certain cases as a war measure and empowered the Government to refer to arbitration any industrial dispute which might lead to serious disorder or breach of public peace, or cause prolonged

hardship to a large section of the community or affect the industry adversely. The Act was amended again in 1942 with a view to exempt the employers from notifying changes regarding hours of work and rest periods which was authorised by the Government as war measure. The Act was further amended in 1945 giving the Labour Officer appointed by the Government power to convene a meeting of the workers on the premises where they were employed and required the employer if he was ordered to do by the Labour Officer, to affix a written announcement of the meeting at such conspicuous places in his premises as were specified in the order.

Bombay Industrial Relations Act, 1946 (Bom. Act XI of 1947)—The Bombay Industrial Disputes Act of 1938 was repealed and replaced by the Bombay Industrial Relations Act which received the assent of the Governor-General in April, 1947. The Act provides for the quicker and more efficient disposal of industrial disputes and gives a greater impetus to labour to organise itself. Some fundamental changes have been introduced by the new Act—(1) creation of a new class of “approved” unions and maintenance of a list of such approved unions, authorising them to collect subscriptions, post notices and hold meetings on the premises of the undertaking and discussions with the employers for prevention and settlement of industrial disputes and to appear before a Labour Court or Industrial Court in proceedings for determination whether a strike or lock-out is illegal or an important question of law or fact, (2) establishment of Labour Courts, which are entirely new in India, to decide cases regarding illegal strikes and lock-outs and to try offences punishable under the Act and also to decide the disputes regarding illegal changes in the Standing Orders or conditions of work and (3) establishment of Joint Committees consisting of equal number of employers’ and employees’ representatives, in various occupations and undertakings in an industry.

The Act was amended in 1948 (Bom. Act XLIII of 1948) which received the assent of the Governor-General on the 13th May, 1948. The amended Act provides for setting up of Wage Boards for different industries in the Province and a Provincial Wage Board for all industries together to deal with general questions affecting the whole industry, such as standardisation of wages, rationalisation, efficiency of work etc., as recommended by the Textile Labour Enquiry Committee. It also provides for compulsory formation of Joint Committees.

As the existing provision for Joint Committees which is permissive has not produced satisfactory results on account of the attitude of the employers, the Act confers powers on the Government to direct the constitution of a Joint Committee for an undertaking or occupation even without the consent of the employers when the registered trade union for the industry prays for such a Joint Committee. To facilitate the speedy settlement of disputes, the Act authorises a registered trade union which is representative of the employees and whose rules provides that it shall neither sanction nor resort to strike unless all the methods available under the Act for settlement of an industrial disputes have been exhausted, to apply direct to the Industrial Court for arbitration avoiding the intermediate stage of conciliation altogether. The Act was further amended in 1948 (Bom Act LXXIV of 1948) introducing some changes.

The Bombay Adjudication (Transfer and Continuance) Act was passed in 1947

(2) CENTRAL PROVINCES AND BERAR

The Central Provinces and Berar Industrial Disputes Settlement Act, 1947 (XXIII of 1947) was passed in May 1947 and received the assent of the Governor-General on the 23rd May, 1947. The Act provides for promotion of peaceful and amicable settlement of industrial disputes by conciliation and arbitration but is a less comprehensive measure than the Bombay Act. It makes provisions for the constitution of permanent Conciliation Machinery consisting of Conciliators, Special Conciliators and a Chief Conciliator for the Province, Provincial and District Industrial Courts, Works Committees, Board of Arbitration and for the appointment of Labour Officers to act as representatives of the employees under certain circumstances. The Act provides for registration of recognised Unions and for compulsory framing and settlement of Standing Orders. The Act was amended in December, 1947 introducing certain minor changes and received the assent of the Governor-General on the 30th December 1947 (II of 1948).

The Central Provinces and Berar Validation of Awards and Continuance of Proceedings (Industrial Disputes) Act was passed in 1947 (XXXVI of 1947).

(3) MADRAS.

The Madras Government proposes to introduce a Bill in the Provincial Legislature to amend the provisions of the Industrial

Disputes Act authorising the Provincial Government to examine the account of any industrial establishment and to take over mills to prevent mill owners to close the mills on the ground of loss and to compel employers to implement the award of a Tribunal and to pay wages during an illegal lock-out

The Madras High Court having declared that Section 10 of the Industrial Disputes Act, 1947 does not empower the Government to refer to an Industrial Tribunal constituted under the Act, all possible disputes that may arise in future or the parties to an industrial dispute to file applications to a Tribunal without a reference from the Government, the Madras Government introduced a Bill in the Provincial Legislature in March, 1949 to amend the Industrial Disputes Act, 1947, to validate all proceedings taken, awards made and all other acts and things done in respect of any such reference, and to authorise the employer or a majority of workmen concerned to refer the dispute to the Tribunal constituted for adjudication of disputes in any specified industry without the intervention of the Government. **The Industrial Disputes (Madras Amendment) Act 1949, (XII of 1949)** was passed and received the assent of the Governor-General on the 10th June, 1949.

(4) EAST PUNJAB

The Trade Disputes Act, 1929 passed by the Punjab Legislative Assembly in 1929 and held over since then, has been brought into force in the Province with effect from April, 1947

(5) UNITED PROVINCES.

The Central Industrial Disputes Act, 1947 not being entirely suitable to the conditions of the United Provinces, the Provincial Government promulgated two successive Ordinances, viz., United Provinces Industrial Disputes Ordinance on the 14th May, 1947 (II of 1947) and the United Provinces Industrial Disputes (Amendment) Ordinance on the 10th June, 1947 (IV of 1947), as an interim measure, pending subsequent enactment of a comprehensive measure

The United Provinces Industrial Disputes Act, 1947 (Act XXVIII of 1947) was subsequently passed in 1947 providing for powers to prevent strikes and lock-outs and to settle industrial disputes and for other incidental matters and came into force

in the Province on the 1st February, 1948, replacing the two Ordinances promulgated in 1947. The Act does not contain complex provisions creating special classes of unions or setting up a chain of agencies for conciliation and arbitration like the Bombay and Central Provinces legislations. It authorises the Provincial Government to prohibit strikes and lock-outs, to refer industrial disputes to conciliation or adjudication, to enforce adjudication awards on the parties to disputes and to exercise control over any public utility service which has been defined as (i) any section of an industrial establishment, on the working of which the safety of the establishment or the workmen employed therein depends, (ii) any industry which supplies power, light or water to the public and (iii) any system of public conservancy or sanitation.

The Government by orders issued in May, 1948, has appointed a number of Conciliators and set up Provincial and Regional Conciliation Boards and Industrial Courts to deal with industrial disputes in respect of the textile, sugar, leather, glass, electricity and engineering industries.

Industrial Disputes in India.

The total number of industrial disputes in India was 406 in 1939 with 409,189 workers involved and 4,992,795 man days lost. This number was increasing every year and the maximum number of disputes took place in 1947, the number of disputes being 1,811 involving 1,059,120 workers and losing 16,562,666 man days. The number of disputes from 1939 to 1948 is given below —

Year	No of disputes	No of workers involved	No of man-days lost
1939	406	409,189	4,992,795
1940	322	452,539	7,577,281
1941	359	291,084	3,330,503
1942	694	772,653	5,779,965
1943	716	525,088	2,342,287
1944	658	550,015	3,447,306
1945	820	747,550	4,054,499
1946	1,629	1,961,948	12,717,762
1947	1,811	1,840,784	16,562,666
1948	1,259	1,059,120	7,837,173

The following table, classified by industries,¹ shows the industrial disputes during the year 1948 —

Industry	No of disputes	No of workers involved	No of man-days lost
Cotton, Wool & Silk	393	4,94,259	37,48,551
Jute	46	1,39,382	11,07,917
Engineering	143	65,897	8,57,498
Railways	41	64,045	1,13,614
Mines	15	23,114	2,24,289
Others	621	2,72,423	17,85,304
Total	1,259	10,59,120	78,37,173

The number of industrial disputes during the year 1948 according to Provinces,¹ is as follows:—

Province	No of disputes	No of workers involved	No of man-days lost
Ajmer-Merwara	43	28,638	36,286
Assam	61	13,880	29,963
Bihar	61	57,902	5,33,722
Bombay	536	3,84,385	18,10,793
Central Provinces and Berar	53	74,677	2,76,030
Delhi	27	63,300	1,20,770
East Punjab	15	6,657	24,832
Madras	161	1,17,401	23,66,124
Orissa	2	1,487	4,096
United Provinces	103	89,931	3,14,775
West Bengal	197	2,20,862	23,19,782
Total	1,259	10,59,120	87,37,173

It will be seen from the above figures that there was a great improvement in industrial relations in the year 1948 and compared to the year 1947, the number of disputes in 1948 decreased by 30.5 per cent, number of workers involved dropped by 52.5 per cent and the number of man-days lost decreased by 52.7 per cent. This improvement in industrial relations in 1948 is due to several factors. First,

¹ Industrial Disputes in India, 1948, Annual Review, Indian Labour Gazette, Vol VI, No 12, June, 1949, pp 872 to 880.

the Industrial Truce Resolution unanimously adopted by the Tripartite Industries Conference held in New Delhi in December, 1947, called upon the management and labour to maintain industrial peace and avoid strikes, lock-outs and slowing down of production for three years. As recommended by the Conference, the Government has agreed to associate labour in all matters concerning industrial production and has decided to set up Central and Regional Labour Advisory Boards, Works Committees and Unit Production Committees. The Central Government has already appointed a Committee on Profit-sharing on the 25th May, 1948 and set up a Tripartite Central Labour Advisory Council on the 29th September, 1948. The Central Advisory Council in its first session held in November, 1948 appointed a Committee on Fair Wages to enquire into and report on the subject of fair wages to labour. The Reports of both these Committees were published and the Central Labour Advisory Council at its second session held on the 25th July, 1949, unanimously adopted the Report of the Committee on Fair Wages, but could not come to an agreement on the issue of Profit-sharing.

— Secondly, the working conditions of labour were considerably improved, wage levels were increased and maximum wages were fixed in major industries by virtue of awards made by the various Adjudicators, Industrial Courts and Industrial Tribunals during the year.

Proposed Revision of the Industrial Disputes Act, 1947.

The Ministry of Labour, Government of India, by a Press Note issued on the 18th March, 1949, proposes to undertake a comprehensive revision of the Industrial Disputes Act, 1947 and to replace it by new enactment called the Labour Relations Act. The proposed Act will meet the imperative need for a much greater measure of uniformity in the law and practice relating to industrial relations and provides for constitution of Standing Labour Courts and a Central Appellate Tribunal with jurisdiction over all the Tribunals set up in the country and encourages negotiation and collective bargaining before the declaration of strikes. The Labour Courts will deal with minor disputes such as leave etc., between the labour and management while the major questions like basic wages, bonus etc., will be referred to the Industrial Tribunals.

As the setting up of Appellate Tribunals was not possible under the existing constitution, a Bill was introduced in the Constituent

Assembly of India on the 24th November, 1948 to amend the Government of India Act, 1935 Government of India (Amendment) Act, 1949 (Constituent Assembly Act No 1 of 1949) was authenticated by the President of the Assembly on the 10th January, 1949. This enactment will enable the Central Government to set up Central Appellate Tribunal to hear appeals against the decisions of the Provincial Industrial Tribunals for adoption of uniform principles and for review of awards made by the Central and Provincial Industrial Tribunals.

The proposed amendment of the Industrial Disputes Act, 1947 was also discussed at a Conference of Provincial and State Labour Ministers held at Delhi on the 17th and 18th January, 1949. The Labour Relations Bill has not yet been finalised and it is not certain when the same will be introduced in the Constituent Assembly (Legislative). The Central Government, therefore, proposes to issue certain provisions of the Bill, specially the provisions relating to the establishment of a Central Appellate Tribunal, in the form of a Governor General's Ordinance. The proposed Ordinance will provide for a Central Appellate Tribunal for reviewing the awards and decisions of the various Provincial Industrial Tribunals. As there is at present no course open to a party aggrieved by the decision of an Industrial Tribunal except by taking the matter to the Provincial High Courts under the Specific Relief Act, the immediate establishment of a Central Appellate Tribunal by an Ordinance, will be highly welcome by the industrialist as well as by the industrial labour.

The Central Government prohibited reference by Provincial Governments of industrial disputes concerning Banking and Insurance Companies to a Provincial Industrial Tribunal for adjudication, inquiry or settlement, by promulgating the Industrial Disputes (Banking and Insurance Companies) Ordinances, 1949 on the 30th April, 1949. The Ordinance provides for abatement of proceedings relating to such disputes pending before the Provincial Tribunals and reference of such disputes to Tribunals constituted by the Central Government and empowers the Central Government to refer the disputes in respect of which awards or decisions have been made for readjudication. The Central Government constituted an Industrial Tribunal consisting of Mr. K. C. Sen, President, Industrial Court, Bombay and retired Judge of Bombay High Court as Chairman and Mr. S. P. Varma, chairman, Industrial Tribunal, Dhanbad and retired Judge of Patna High Court and Mr. J. N. Majumder, retired Judge

of Calcutta High Court as Members, for adjudication of industrial disputes in banking companies. By an order dated the 13th June 1949, the Central Government referred the industrial disputes between the banking companies and their employees covering 38 items to this Industrial Tribunal for adjudication. The Government also proposes to issue another Ordinance for the purpose of setting up another Industrial Tribunal on the above lines to adjudicate disputes between the insurance companies and their employees.

The Industries (Development and Control) Bill, 1949 introduced in the Constituent Assembly of India, also seeks to assume authority in respect of labour relations concerning as many as 25 industries listed in the Bill, including jute, cotton, tea, iron and steel.

INDUSTRIAL DISPUTES ACT, 1947 (XIV OF 1947)

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INDUSTRIAL DISPUTES ACT, 1947 (XIV OF 1947)¹

An Act to make provision for the investigation and settlement of industrial disputes, and for certain other purposes.

Whereas it is expedient to make provision for the investigation and settlement of industrial disputes, and for certain other purposes hereinafter appearing ;

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY.

1. Short title, extent and commencement.—(1) This Act may be called the Industrial Disputes Act, 1947.

(2) It extends to ²[all the Provinces in India].

(3) It shall come into force on the first day of April, 1947.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context.—

(a) “appropriate Government” means—

(i) in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government * * * or by a railway company operating a Federal Railway or in relation to an in-

¹ For Statements of Objects and Reasons see the Gazette of India, Part V, dated the 2nd November 1946 and for Report of the Select Committee see the Gazette of India, Part V, dated the 15th February, 1947

² These words were substituted for the words “the whole of British India” by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948

³ The words “by the Federal Railway Authority” were repealed, *ibid.*

ustrial dispute concerning ¹[a banking or an insurance company, a mine or an oilfield], or a major port, the Central Government, and

(ii) in relation to any other industrial dispute, the Provincial Government ;

(b) "award" means an interim or final determination by an Industrial Tribunal of any industrial dispute or of any question relating thereto ;

²[(bb) "banking company" means a banking company as defined in section 5 of the Banking Companies Act, 1949 (X of 1949) having branches or other establishments in more than one Province and includes Imperial Bank of India] ,

(c) "Board" means a Board of Conciliation constituted under this Act ;

(d) "Conciliation Officer" means a Conciliation Officer appointed under this Act ;

(e) "conciliation proceeding" means any proceeding held by a Conciliation Officer or Board under this Act ;

(f) "Court" means a Court of Inquiry constituted under this Act ;

(g) "employer" means—

(i) in relation to an industry carried on by or under the authority of any department of ³[the Central Government or a Provincial Government], the authority prescribed in this behalf, or where no authority is prescribed, the head of the department ;

(ii) in relation to an industry carried on by or on behalf of a local authority, the Chief Executive Officer of that authority ;

(h) "Federal Railway" has the same meaning as in the Government of India Act, 1935 (26 Geo. 5 C. 2).

(i) a person shall be deemed to be "independent" for the purpose of his appointment as the chairman or other member of a Board, Court or Tribunal, if he is unconnected with the industrial dispute

¹ These words were substituted for the words "a mine or oilfield" by S 3 of the Industrial Disputes (Banking and Insurance Companies) Ordinance, 1949 (VI of 1949).

² The clause (bb) was inserted, *ibid*

³ These words were substituted for the words "a Government in British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

referred to such Board, Court or Tribunal or with any industry directly affected by such dispute,

(j) "industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen ;

(k) "industrial dispute" means any dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person ;

¹[(kk) "insurance company" means an insurance company as defined in section 2 of the Insurance Act, 1938 (IV of 1938) having branches or other establishments in more than one Province] ;

(l) "lock-out" means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him ;

(m) "prescribed" means prescribed by rules made under this Act ;

(n) "public utility service" means—

(i) any railway service ,

(ii) any section of an industrial establishment, on the working of which the safety of the establishment or the workmen employed therein depends ;

(iii) any postal, telegraph or telephone service ;

(iv) any industry which supplies power, light or water to the public ;

(v) any system of public conservancy or sanitation ;

(vi) any industry specified in the Schedule which the appropriate Government may, if satisfied that public emergency or public interest so requires, by notification in the official Gazette declare to be a public utility service for the purposes of this Act, for such period as may be specified in the notification .

Provided that the period so specified shall not, in the first instance, exceed six months but may, by a like notification, be extended from time to time, by any period not exceeding six months, at any one time if in the opinion of the appropriate Government public emergency or public interest requires such extension.

¹ The clause (kk) was inserted by S. 3 of the Industrial Disputes (Banking and Insurance Companies) Ordinance, 1949 (VI of 1949)

(o) "railway company" means a railway company as defined in section 3 of the Indian Railways Act, 1890 (X of 1890) ;

(p) "settlement" means a settlement arrived at in the course of a conciliation proceeding ;

(q) "strike" means a cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment ,

(r) "Tribunal" means an Industrial Tribunal constituted under this Act ;

(s) "workman" means any person employed (including an apprentice) in any industry to do any skilled or unskilled, manual or clerical work for hire or reward and includes, for the purposes of any proceedings under this Act in relation to an industrial dispute, a workman discharged during that dispute, but does not include any person employed in the naval, military or air service of the Crown.

CHAPTER II

AUTHORITIES UNDER THE ACT.

3. Works Committee —(1) In the case of any industrial establishment in which one hundred or more workmen are employed or have been employed on any day in the preceding twelve months, the appropriate Government may by general or special order require the employer to constitute in the prescribed manner a Works Committee consisting of representatives of employers and workmen engaged in the establishment so however that the number of representatives of workmen on the Committee shall not be less than the number of representatives of the employer. The representatives of the workmen shall be chosen in the prescribed manner from among the workmen engaged in the establishment and in consultation with their trade union, if any, registered under the Indian Trade Unions Act, 1926 (XVI of 1926).

(2) It shall be the duty of the Works Committee to promote measures for securing and preserving amity and good relation between the employer and workmen and to that end to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters.

4. Conciliation Officers.—(1) The appropriate Government may, by notification in the official Gazette, appoint such number of persons as it thinks fit, to be Conciliation Officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.

(2) A Conciliation Officer may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period

5. Boards of Conciliation.—(1) The appropriate Government may as occasion arises by notification in the official Gazette constitute a Board of Conciliation for promoting the settlement of an industrial dispute.

(2) A Board shall consist of a chairman and two or four other members, as the appropriate Government thinks fit

(3) The chairman shall be an independent person and the other members shall be persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent a party shall be appointed on the recommendation of that party.

Provided that, if any party fails to make a recommendation as aforesaid within the prescribed time, the appropriate Government shall appoint such persons as it thinks fit to represent that party.

(4) A Board, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number :

Provided that if the appropriate Government notifies the Board that the services of the chairman or of any other member have ceased to be available, the Board shall not act until a new chairman or member, as the case may be, has been appointed.

6. Courts of Inquiry.—(1) The appropriate Government may as occasion arises by notification in the official Gazette constitute a Court of Inquiry for inquiring into any matter appearing to be connected with or relevant to an industrial dispute.

(2) A Court may consist of one independent person or of such number of independent persons as the appropriate Government may think fit and where a Court consists of two or more members, one of them shall be appointed as the chairman.

(3) A Court, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number :

Provided that, if the appropriate Government notifies the Court that the services of the chairman have ceased to be available, the Court shall not act until a new chairman has been appointed

7. Industrial Tribunals.—(1) The appropriate Government may constitute one or more Industrial Tribunals for the adjudication of industrial disputes in accordance with the provisions of this Act.

(2) A Tribunal shall consist of such number of members as the appropriate Government thinks fit. Where the Tribunal consists of two or more members, one of them shall be appointed as the chairman.

(3) Every member of the Tribunal shall be an independent person,

(a) who is or has been a Judge of a High Court or a District Judge, or

(b) is qualified for appointment as a Judge of a High Court :

Provided that the appointment to a Tribunal of any person not qualified under part (a) shall be made in consultation with the High Court of the Province in which the Tribunal has or is intended to have, its usual place of sitting

8. Filling of vacancies.—(1) If the services of the Chairman of a Board or of the chairman or other member of a Court or Tribunal cease to be available at any time, the appropriate Government shall, in the case of a chairman, and may in the case of any other member, appoint another independent person to fill the vacancy, and the proceedings shall be continued before the Board, Court or Tribunal so reconstituted.

(2) Where a Court or Tribunal consists of one person only and his services cease to be available, the appropriate Government shall appoint another independent person in his place, and the proceedings shall be continued before the person so appointed.

(3) Where the services of any member of a Board other than the chairman have ceased to be available, the appropriate Government shall appoint in the manner specified in sub-section (3) of section 5 another person to take his place, and the proceedings shall be continued before the Board so reconstituted.

9. Finality of orders constituting a Board, Court or Tribunal.

--No order of the appropriate Government appointing any person as a member of a Board, Court or Tribunal shall be called in question in any manner.

CHAPTER III

REFERENCE OF DISPUTES TO BOARDS, COURTS OR TRIBUNALS

10. Reference of disputes to Boards, Courts or Tribunals.—

(1) If any industrial dispute exists or is apprehended, the appropriate Government may, by order in writing,—

- (a) refer the dispute to a Board for promoting a settlement thereof ; or
- (b) refer any matter appearing to be connected with or relevant to the dispute to a Court for inquiry , or
- (c) refer the dispute to a Tribunal for adjudication

Provided that where the dispute relates to a public utility service and a notice under section 22 has been given, the appropriate Government shall, unless it considers that the notice has been frivolously or vexatiously given or that it would be inexpedient so to do, make a reference under this sub-section notwithstanding that any other proceedings under this Act in respect of the dispute may have commenced.

(2) Where the parties to an industrial disputes apply in the prescribed manner, whether jointly or separately, for a reference of the dispute to a Board, Court or Tribunal, the appropriate Government, if satisfied that the persons applying represent the majority of each party, shall make the reference accordingly.

(3) Where an industrial dispute has been referred to a Board or Tribunal under this section, the appropriate Government may by order prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference.

CHAPTER IV.

PROCEDURE, POWERS AND DUTIES OF AUTHORITIES.

11. Procedure and powers of Conciliation Officers, Boards, Courts and Tribunals.—(1) Conciliation Officers, Boards, Courts and Tribunals shall, subject to the provisions of this Act, follow such procedure as may be prescribed.

(2) A Conciliation Officer or a member of a Board, Court or Tribunal may for the purpose of inquiry into any existing or apprehended industrial dispute, after giving reasonable notice, enter the premises occupied by any establishment to which the dispute relates.

(3) Every Board, Court and Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), when trying a suit, in respect of the following matters, namely —

- (a) enforcing the attendance of any person and examining him on oath ,
- (b) compelling the production of documents and material objects ;
- (c) issuing commissions for the examination of witnesses ,
- (d) in respect of such other matters as may be prescribed ;

and every inquiry or investigation by a Board, Court or Tribunal, shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (XLV of 1860)

(4) A Conciliation Officer may call for and inspect any document which he has ground for considering to be relevant to the industrial dispute.

(5) With the consent of all parties to the dispute, a Court or Tribunal may, if it so thinks fit, appoint one or more persons as assessors to advise it in the proceedings.

(6) Every Conciliation Officer and every member of a Board, Court or Tribunal shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, (XLV of 1860).

12. Duties of Conciliation Officers.—(1) Where any industrial dispute exists or is apprehended, the Conciliation Officer may, or where the dispute relates to a public utility service and a notice under section 22 has been given, shall, hold conciliation proceedings in the prescribed manner.

(2) The Conciliation Officer shall, for the purpose of bringing about a settlement of the dispute, without delay investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(3) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings the Conciliation Officer shall send a report thereof to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.

(4) If no such settlement is arrived at, the Conciliation Officer shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at

(5) If, on a consideration of the report referred to in sub-section (4), the appropriate Government is satisfied that there is a case for reference to a Board or Tribunal, it may make such reference. Where the appropriate Government does not make such a reference, it shall record and communicate to the parties concerned its reasons therefor.

(6) A report under this section shall be submitted within fourteen days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government.

13. Duties of Boards.—(1) Where a dispute has been referred to a Board under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(2) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the Board shall send a report thereof to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.

(3) If no such settlement is arrived at, the Board shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the proceedings and steps taken by the Board for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, its findings thereon, the reasons on account of which, in its opinion, a settlement could not be arrived at and its recommendations for the determination of the dispute.

(4) If, on the receipt of a report under sub-section (3) in respect of a dispute relating to a public utility service, the appropriate Government does not make a reference to a Tribunal under section 10, it shall record and communicate to the parties concerned its reasons therefor.

(5) The Board shall submit its report under this section within two months of the date of the notice under section 22 or within such shorter period as may be fixed by the appropriate Government :

Provided that the appropriate Government may from time to time extend the time for the submission of the report by such further periods not exceeding two months in the aggregate :

Provided further that the time for the submission of the report may be extended by such period as may be agreed on in writing by all the parties to the dispute.

14. Duties of Courts.—A Court shall inquire into the matters referred to it and report thereon to the appropriate Government ordinarily within a period of six months from the commencement of its inquiry.

15. Duties of Tribunals.—(1) Where an industrial dispute has been referred to a Tribunal for adjudication, it shall hold its proceedings expeditiously and shall, as soon as practicable on the conclusion thereof, submit its award to the appropriate Government.

(2) On receipt of such award, the appropriate Government shall by order in writing declare the award to be binding :

Provided that where the appropriate Government is a party to the dispute and in its opinion it would be inexpedient on public grounds to give effect to the whole or any part of the award, it shall on the first available opportunity lay the award together with the statement of its reasons for not making a declaration as aforesaid before the Legislative Assembly of the Province, or where the appropriate Government is the Central Government, before the ¹[Central Legislature], and shall, as soon as may be, cause to be moved therein a resolution for the consideration of the award ; and the ²[Legislative Assembly or as the case may be, the Central Legislature], ³[may] by its resolution, confirm, modify, or reject the award.

¹ These words were substituted for the words "Central Legislative Assembly" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

² These were substituted for the words "Legislative Assembly may", *ibid.*

³ The word "may" was inadvertently omitted, *ibid.*

(3) On the passing of a resolution under the proviso to sub-section (2), unless the award is rejected thereby, the appropriate Government shall by order in writing declare the award as confirmed or modified by the resolution, as the case may be, to be binding

(4) Save as provided in the proviso to sub-section (3) of section 19, an award declared to be binding under this section shall not be called in question in any manner

16. Form of report or award.—The report of a Board or Court and the award of a Tribunal shall be in writing and shall be signed by all the members of the Board, Court or Tribunal, as the case may be

Provided that nothing in this section shall be deemed to prevent any member of the Board, Court or Tribunal from recording a minute of dissent from a report or award from any recommendation made therein

17. Publication of reports and awards.—The report of a Board or Court and the award of a Tribunal, together with any minute of dissent recorded therewith, shall, within a period of one month from the date of its receipt by the appropriate Government, be published in such manner as it thinks fit

18. Persons on whom settlements and awards are binding.—A settlement arrived at in the course of conciliation proceedings under this Act or an award which is declared by the appropriate Government to be binding under sub-section (2) of section 15 shall be binding on—

- (a) all parties to the industrial dispute ;
- (b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board or Tribunal, as the case may be, records the opinion that they were so summoned without proper cause ;
- (c) where a party referred to in clause (a) or clause (b) is an employers, his heirs, successors or assigns in respect of the establishment to which the dispute relates ;
- (d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

19. Period of operation of settlements and awards.—

(1) A settlement arrived at in the course of a conciliation proceeding under this Act shall come into operation on such date as is agreed upon by the parties to the dispute, and if no date is agreed upon, on the date on which the memorandum of the settlement is signed by the parties to the dispute

(2) Such settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of six months, and shall continue to be binding on the parties after the expiry of the period aforesaid, until the expiry of two months from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party or parties to the settlement

(3) An award declared by the appropriate Government under section 15 to be binding shall come into operation on such date as may be specified by the appropriate Government and shall remain in operation for such period, not exceeding one year, as may be fixed by that Government.

Provided that if, of its own motion or on the application of any party bound by the award, the appropriate Government considers that there has been a material change in the circumstances on which the award was based, it may refer the award to a Tribunal for a decision whether or not the award should, by reason of such change cease to be in operation before the expiry of the period so fixed, and the period of operation of the award should be determined by the decision of the Tribunal on such reference.

20. Commencement and conclusion of proceedings.—

(1) A conciliation proceeding shall be deemed to have commenced on the date on which a notice of strike or lock-out under section 22 is received by the Conciliation Officer or on the date of the order referring the dispute to a Board, as the case may be.

(2) A conciliation proceeding shall be deemed to have concluded—

- (a) where a settlement is arrived at, when a memorandum of the settlement is signed by the parties to the dispute ;
- (b) where no settlement is arrived at, when the report of the Conciliation Officer is received by the appropriate Government or when the report of the Board is published under section 17, as the case may be, or

(c) when a reference is made to a Court or Tribunal under section 10 during the pendency of conciliation proceedings.

(3) Proceedings before a Tribunal shall be deemed to have commenced on the date of the reference of a dispute for adjudication and such proceedings shall be deemed to have concluded when the award is published by the appropriate Government under section 17, or where an award has been laid before the Legislative Assembly ¹[or Central Legislature] under the proviso to sub-section (2) of section 15, when the resolution of the Legislative Assembly ¹[or Central Legislature] thereon is passed.

21. Certain matters to be kept confidential.—There shall not be included in any report or award under this Act any information obtained by Conciliation Officer, Board, Court or Tribunal in the course of any investigation or inquiry as to a trade union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through the evidence given before such Officer, Board, Court or Tribunal, if the trade union, person, firm or company, in question has made a request in writing to the Conciliation Officer, Board, Court or Tribunal, as the case may be, that such information shall be treated as confidential, nor shall such Conciliation Officer or any individual member of the Board, Court or Tribunal or any person present at or concerned in the proceedings disclose any such information without the consent in writing of the Secretary of the trade union or the person, firm or company in question, as the case may be.—

Provided that nothing contained in this section shall apply to a disclosure of any such information for the purposes of a prosecution under section 193 of the Indian Penal Code (XLV of 1860).

CHAPTER V

STRIKES AND LOCK-OUTS.

22. Prohibition of strikes and lock-outs.—(1) No person employed in a public utility service shall go on strike in breach of contract—

(a) without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking ; or

¹ These words were inserted by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

- (b) within fourteen days of giving such notice , or
- (c) before the expiry of the date of strike specified in any such notice as aforesaid , or
- (d) during the pendency of any conciliation proceedings before a Conciliation Officer and seven days after the conclusion of such proceedings

(2) No employer carrying on any public utility service shall lock-out any of his workmen—

- (a) without giving them notice of lock-out as hereinafter provided, within six weeks before looking out ; or
- (b) within fourteen days of giving such notice ; or
- (c) before the expiry of the date of lock-out specified in any such notice as aforesaid ; or
- (d) during the pendency of any conciliation proceedings before a Conciliation Officer and seven days after the conclusion of such proceedings.

(3) The notice of lock-out or strike under this section shall not be necessary where there is already in existence a strike, or, as the case may be, lock-out in the public utility service, but the employer shall send intimation of such lock-out or strike on the day on which it is declared, to such authority as may be specified by the appropriate Government either generally or for a particular area or for a particular class of public utility services.

(4) The notice of strike referred to in sub-section (1) shall be given by such number of persons to such person or persons and in such manner as may be prescribed.

(5) The notice of lock-out referred to in sub-section (2) shall be given in such manner as may be prescribed.

(6) If on any day an employer receives from any persons employed by him any such notices as are referred to in sub-section (1) or gives to any persons employed by him any such notices as are referred to in sub-section (2), he shall within five days thereof report to the appropriate Government or to such authority as that Government may prescribe the number of such notices received or given on that day.

23. General prohibition of strikes and lock-outs.—No workman who is employed in any industrial establishment shall go on

strike in breach of contract and no employer of any such workman shall declare a lock-out—

- (a) during the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings ;
- (b) during the pendency of proceedings before a Tribunal and two months after the conclusion of such proceedings ; or
- (c) during any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

24. Illegal strikes and lock-outs.—(1) A strike or a lock-out shall be illegal if—

- (i) it is commenced or declared in contravention of section 22 or section 23 ; or
- (ii) it is continued in contravention of an order made under sub-section (3) of section 10.

(2) Where a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the reference of the dispute to a Board, or Tribunal, the continuance of such strike or lock-out shall not be deemed to be illegal, provided that such strike or lock-out was not at its commencement in contravention of the provisions of this Act or the continuance thereof was not prohibited under sub-section (3), of section 10.

(3) A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

25. Prohibition of financial aid to illegal strikes and lock-outs.—No person shall knowingly expend or apply any money in direct furtherance or support of any illegal strike or lock-out.

CHAPTER VI.

PENALTIES.

26. Penalty for illegal strikes and lock-outs.—(1) Any workman who commences, continues or otherwise acts in furtherance of, a strike which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

(2) Any employer who commences, continues, or otherwise acts in furtherance of a lock-out which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

27. Penalty for instigation, etc.—Any person who instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

28. Penalty for giving financial aid to illegal strikes and lock-outs.—Any person who knowingly expends or applies any money in direct furtherance or support of any illegal strike or lock-out shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

29. Penalty for breach of settlement or award.—If any person commits a breach of any term of any settlement or award which is binding on him under this Act, he shall on his first conviction therefor be punishable with fine which may extend to two hundred rupees and in the event of a second or subsequent conviction, with fine which may extend to five hundred rupees.

30. Penalty for disclosing confidential information.—Any person who wilfully discloses any such information as is referred to in section 21 in contravention of the provisions of that section shall, on complaint made by or on behalf of the trade union or individual business affected, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

31. Penalty for other offences.—(1) Any employer who contravenes the provisions of section 33 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever contravenes any of the provisions of this Act or any rule made thereunder shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one hundred rupees.

CHAPTER VII.

MISCELLANEOUS

32. Offence by companies, etc.—Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), every director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence

33. Conditions of service, etc. to remain unchanged during pendency of proceedings.—No employer shall during the pendency of any conciliation proceeding or proceedings before a Tribunal, in respect of any industrial dispute, alter to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceedings, nor, save with the express permission in writing of the Conciliation Officer, Board or Tribunal, as the case may be, shall he during the pendency of such proceedings, discharge, dismiss, or otherwise punish any such workmen, except for misconduct not connected with the dispute.

34. Cognizance of offences.—(1) No Court shall take cognizance of any such offence punishable under this Act or of the abatement of any such offence, save on complaint made by or under the authority of the appropriate Government.

(2) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

35. Protection of persons.—(1) No person refusing to take part or to continue to take part in any strike or lock-out which is, illegal under this Act shall, by reason of such refusal or by reason of any action taken by him under this section, be subject to expulsion from any trade union or society, or to any fine or penalty, or to deprivation of any right or benefit to which he or his legal representatives would otherwise be entitled, or be liable to be placed in any respect, either directly or indirectly, under any disability or at any disadvantage as compared with other members of the union or society, anything to the contrary in the rules of a trade union or society notwithstanding.

(2) Nothing in the rules of a trade union or society requiring the settlement of disputes in any manner shall apply to any proceeding for enforcing any right or exemption secured by this section, and in any such proceeding the Civil Court may, in lieu of ordering a person who has been expelled from membership of a trade union or society to be restored to membership, order that he be paid out of the funds of the trade union or society such sum by way of compensation or damages as that Court thinks just.

36. Representation of parties.—(1) A workman who is a party to an industrial dispute shall be entitled to be represented in any proceedings under this Act by an officer of a registered trade union, and any employer who is a party to an industrial dispute shall be entitled to be represented in any such proceedings by an officer of an association of employers.

(2) No party to an industrial dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Act.

(3) A party to an industrial dispute may be represented by a legal practitioner in any proceedings before a Court or Tribunal

37. Protection of action taken under the Act.—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder

38. Power to make rules.—(1) The appropriate Government may, subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the powers and procedure of Conciliation Officers, Boards, Courts and Tribunals including rules as to the summoning of witnesses, the production of documents relevant to the subject-matter of an inquiry or investigation, the number of members necessary to form a quorum and the manner of submission of reports and awards ;

(b) the constitution and functions of and the filling of vacancies in Works Committees, and the procedure to be followed by such Committees in the discharge of their duties.

- (c) the allowances admissible to members of Courts, Boards, and Tribunals and to assessors and witnesses ,
- (d) the ministerial establishment which may be allotted to a Court, Board or Tribunal and the salaries and allowances payable to members of such establishments ,
- (e) the manner in which and the persons by and to whom notice of strike or lockout may be given and the manner in which such notices shall be communicated ,
- (f) the conditions subject to which parties may be represented by legal practitioners in proceedings under this Act before a Court or Tribunal ;
- (g) any other matter which is to be or may be prescribed

(3) Rules made under this section may provide that a contravention thereof shall be punishable with fine not exceeding fifty rupees.

39. Delegation of power.—The appropriate Government may by order direct that its power under section 3 shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised by any officer or authority subordinate to that Government.

40. Repeal of Act VII of 1929.—The Trade Disputes Act, 1929, is hereby repealed.

THE SCHEDULE

Industries which may be declared to be public utility services under sub-clause (vi) of clause (n) of section 2.

- 1 Transport (other than railways) for the carriage of passengers or goods, by land, water or air.
2. Coal.
3. Cotton textiles.
4. Food stuffs.
5. Iron and steel.

INDUSTRIAL DISPUTES (CENTRAL) RULES, 1947

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INDUSTRIAL DISPUTES (CENTRAL) RULES, 1947 ¹

In exercise of the powers conferred by section 38 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to make the following rules, the same having been previously published as required by sub-section (1) of the said section, namely :—

The Industrial Disputes (Central) Rules, 1947.

PRELIMINARY.

1. *Title and application*—(1) These rules may be called the Industrial Disputes (Central) Rules, 1947.

(2) They extend to all Chief Commissioners' Provinces and shall also apply in relation to all industries, businesses and undertakings carried on by or under the authority of the Central Government, by the Federal Railway and to major ports, mines and oilfields, throughout ²[the Provinces]

2. *Definitions*—In these rules, unless there is anything repugnant in the subject or context.—

(a) "Act" means the Industrial Disputes Act, 1947

(b) "Chairman" means the Chairman of a Board, Court or Tribunal or, if the Court or Tribunal consists of one person only, such person ;

(c) "Committee" means a Works Committee constituted under sub-section (1) of section 3 of the Act.

(d) "Form" means a form in the Schedule to these rules ;

(e) "Section" means a section of the Act

³[(f) In relation to an industrial dispute in a Chief Commissioner's Province, for which the appropriate Government is the Provincial Government, reference to the Central Government or the Secretary to the Government of India in the Ministry of Labour or the Ministry of Labour of the Government of India shall be construed as reference to the Chief Commissioner of the Province, and reference to the Chief Labour Com-

¹ These Rules were published under the Ministry of Labour Notification No. LR-1 (4) dated the 9th August, 1947

² These words were substituted for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

³ This clause was added by Ministry of Labour Notification No LR-1 (22) dated the 30th March, 1948

missioner (Central), Regional Labour Commissioner (Central) and Conciliation Officer (Central) shall be construed as reference to the appropriate authority appointed in that behalf by the Chief Commissioner of the Province]

PART I

PROCEDURE FOR REFERENCE OF INDUSTRIAL DISPUTES TO BOARDS OF CONCILIATION, COURTS OF INQUIRY OR INDUSTRIAL TRIBUNALS

3. Application—An application for the reference of an industrial dispute to a Board, Court or Tribunal shall be made in Form A and shall be delivered personally or forwarded by registered post in triplicate to the Secretary to the Government of India in the Ministry of Labour. The application shall be accompanied by a statement setting forth—

- (a) the parties to the dispute ;
- (b) the specific matters of dispute ;
- (c) the total number of workmen employed in the undertaking affected ;
- (d) an estimate of the number of workmen affected or likely to be affected by the dispute ; and
- (e) the efforts made by the parties themselves to adjust the dispute.

4. Attestation of application.—The application and the statement accompanying it shall be signed—

- (a) in the case of an employer, by the employer himself, or when the employer is an incorporated company or other body corporate, by the agent, manager or other principal officer of the Corporation ;
- (b) in the case of workmen, either by the President and Secretary of a registered trade union of the workmen, or by five representatives of the workmen duly authorised in this behalf at a meeting of the workmen held for the purpose.

5. Notification of appointment of Board, Court or Tribunal.—The appointment of a Board, Court or Tribunal together with the names of persons constituting the Board, Court or Tribunal shall be notified in the official Gazette

6. Notice to parties to nominate representatives.—(1) If the Central Government proposes to appoint a Board, it shall send a notice in form B to the parties requiring them to nominate within a reasonable time persons to represent them on the Board.

(2) The notice to the employer shall be sent to the employer personally, or if the employer is an incorporated company or a body corporate, to the agent, manager or other principal officer of such company or body.

(3) The notice to the workmen shall be sent —

(a) in the case of workmen who are members of a registered trade union, to the President or Secretary of the trade union ; and

(b) in the case of workmen who are not members of a registered trade union, to any one workman who has attested the application made under rule 3 ; and in this case a copy of the notice shall also be sent to the employer who shall display copies thereof on notice boards in a conspicuous manner at the main entrance to the premises of the establishment.

PART II.

POWERS, PROCEDURE AND DUTIES OF CONCILIATION OFFICERS, BOARDS, COURTS AND TRIBUNALS.

7. Conciliation proceedings.—On receipt of information about an existing or apprehended industrial dispute, or, where the dispute relates to a public utility service, on receipt of a notice of a strike or lock-out given under rule 52 or rule 53, the Conciliation Officer shall forthwith arrange to interview both the employer and the workmen concerned with the dispute at such places and at such times as he may deem fit and shall endeavour to bring about a settlement of the dispute in question.

8. The Conciliation Officer may hold a meeting of the representatives of both parties jointly or of each party separately.

9. The Conciliation Officer shall conduct the proceedings expeditiously and in such manner as he may deem fit.

10. Place and time of hearing.—The sittings of a Board, Court or Tribunal shall be held at such times and places as the Chairman

may fix, and the Chairman shall inform the parties of the same in such manner as he thinks fit:

Provided that as far as possible the Board, Court or Tribunal shall sit at or near the place where the dispute or matter arose which is before it.

11. *Quorum for Boards and Courts*—The quorum necessary to constitute a sitting of a Board or Court shall be as follows:—

(i) in the case of a Board—	Quorum.
where the number of members is 3	2
where the number of members is 5	3
(ii) in the case of a Court—	
where the number of members is not more than 2	1
where the number of members is more than 2 but less than 5	2
where the number of members is 5 or more	3

12. *Casual vacancy in Tribunal*.—Where a Tribunal consists of two or more members, the Tribunal may, with the consent of the parties, act notwithstanding any casual vacancy in its number and no act, proceeding or determination of the Tribunal shall be called in question or invalidated by reason of any such vacancy

13. *Administration of oath*.—Any member of a Board, Court or Tribunal may administer an oath

14. *Evidence*.—A Board, Court or Tribunal may accept, admit or call for evidence at any stage of the proceedings before it and in such manner as it may think fit.

15. *Summons*.—A summons issued by a Board, Court or Tribunal shall be in Form 'C' and may require any person to produce before it any books, papers or other documents and things in his possession or under his control in any way relating to the matter under investigation or adjudication by the Board, Court or Tribunal which the Board, Court or Tribunal thinks necessary for the purpose of such investigation or adjudication.

16. *Service of summons of notice*.—Any notice, summons, process or order issued by a Board, Court or Tribunal may be served either personally or by registered post.

17. *Procedure at the first sitting*.—At the first sitting of a Board, Court or Tribunal, the Chairman shall call upon the parties in such order as he may think fit to state their case

18. Information to be kept confidential.—All books, papers and other documents or things produced before a Board, Court or Tribunal whether voluntarily or in pursuance of a summons may be inspected by the Board, Court or Tribunal and also by such parties as the Board, Court or Tribunal allows, but the information obtained therefrom shall not except as provided in the Act, be made public, and such parts of the books, papers, documents or things as in the opinion of the Board, Court or Tribunal do not relate to the matters at issue may be sealed up.

19. Board, Court or Tribunal may proceed ex-parte—If without good cause shown, any party to proceedings before a Board, Court or Tribunal fails to attend or to be represented, the Board, Court or Tribunal may proceed as if he had duly attended or had been represented.

20. Power of entry and inspection.—A Board, Court, or Tribunal or any member thereof or any other person authorised in writing by a Board, Court or Tribunal in this behalf may, for the purpose of any investigation, enquiry or adjudication entrusted to the Board, Court or Tribunal under the Act, at any time between the hours of sunrise and sunset, and in the case of a person authorised in writing by a Board, Court or Tribunal after he has given reasonable notice, enter any building, factory, workshop or other place or premises whatsoever, and inspect the same or any work, machinery, appliance or article therein or interrogate any person therein in respect of anything situated therein or any matter relevant to the subject-matter of the investigation, enquiry or adjudication.

21. Power of Boards, Courts and Tribunals.—In addition to the powers conferred by sub-section (3) of section 11 of the Act, Boards, Courts and Tribunals shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—

- (a) discovery and inspection;
- (b) granting adjournment;
- (c) reception of evidence taken on affidavit;

and the Board, Court or Tribunal may summon and examine *suo moto* any person whose evidence appears to it to be material and shall be deemed to be a Civil Court within the meaning of section 480 and 482 of the Code of Criminal Procedure, 1898.

22. Decision by majority.—All questions arising for decision at any meeting of a Board, Court or Tribunal, save where the Court

or Tribunal consists of one person, shall be decided by a majority of the votes of the members thereof (including the Chairman) present at the meeting. In the event of an equality of votes, the Chairman shall also have a casting vote.

23. Correction of errors—The Tribunal may correct any clerical mistake or error arising from an accidental slip or omission in any award or issues.

24. Right of representatives—The representatives of the parties, appearing before a Board, Court or Tribunal, shall have the right of examination, cross-examination and re-examination and of addressing the Board, Court or Tribunal when all evidence has been called.

25. Proceedings before a Board—The proceedings before a Board shall be held in public ;

Provided that the Board may at any stage direct that any witness shall be examined or its proceedings shall be held in camera.

PART III.

REMUNERATION OF MEMBERS OF BOARDS, COURTS AND TRIBUNALS, ASSESSORS AND WITNESSES AND ESTABLISHMENT

26. Travelling allowance.—A member of a Board, Court or Tribunal, if a non-official, shall be entitled to draw travelling allowance and halting allowance for any journey performed by him in connection with his duties as such member at the rates admissible and subject to the conditions applicable to a Government servant of the first grade under the Supplementary Rules issued by the Central Government.

27. Fees—The Chairman and members of a Board, Court or Tribunal and the assessors appointed to assist a Court or Tribunal shall be granted such fees as may be sanctioned by the Central Government in each case.

28. Expenses of witnesses—Every person who is summoned and duly attends as a witness before a Board, Court or Tribunal shall be entitled to an allowance for expenses according to the scale for the time being in force with respect to witnesses in civil courts in the province where the investigation, enquiry or adjudication is being conducted.

29. *Establishment.*—The Central Government may appoint a Secretary to the Board, Court or Tribunal and such other staff as it may think necessary and may fix the salaries and allowances payable to them

PART IV

REPRESENTATION OF PARTIES.

30. *Representation by a legal practitioner.*—Any party to a reference before a Court or Tribunal may be represented by a legal practitioner with the permission of the Court or Tribunal, as the case may be, and subject to such conditions or restrictions as the Court or Tribunal may impose.

31. *Parties bound by acts of representatives.*—A party appearing by a representative shall be bound by the acts of that representative

PART V

WORKS COMMITTEES

32. *Constitution.*—Any employer to whom an order made under sub-section (1) of section 3 relates shall forthwith proceed to constitute a Works Committee in the manner prescribed in this part.

33. *Number of members.*—The number of members constituting the Committee shall be fixed so as to afford representation to the various categories, groups and classes of workmen engaged in, and to the sections, shops or departments of, the establishment.

Provided that the total number of members shall not exceed twenty :

Provided further that the number of representatives of the workmen shall not be less than the number of representatives of the employer

34. *Representatives of employer.*—Subject to the provisions of these rules, the representatives of the employer shall be nominated by the employer and shall as far as possible, be officials in direct touch with or associated with the working of the establishment

35. Consultation with trade unions—Where any workmen of an establishment are members of a registered trade union, the employer shall ask the union to inform him in writing—

- (a) how many of the workmen are members of the union, and
- (b) how their membership is distributed among the sections, shops or departments of the establishment

36. Groups of workmen's representatives—On receipt of the information called for under rule 35, the employer shall provide for the election of workmen's representatives on the Committee in two group—

- (1) those to be elected by the workmen of the establishment who are members of the union or unions, and
 - (2) those to be elected by the workmen of the establishment who are not members of the union or unions,
- bearing the same proportion to each other as the union members in the establishment bear to the non-members

Provided that where more than half the workmen are members of a union, no such division shall be made.

37. Electoral constituencies.—Where under rule 36 the workmen's representatives are to be elected in two groups, the workmen entitled to vote shall be divided into two electoral constituencies, the one consisting of those who are members of a union and the other of those who are not.

Provided that the employer may, if, he thinks fit, subdivide the two electoral constituencies and direct that workmen shall vote either by groups, sections, shops or departments.

38. Qualifications of candidates for election—Any workman of not less than 19 years of age and with a service of not less than one year in the establishment may if nominated as provided in these rules, be a candidate for election as a representative of the workmen on the Committee ;

Provided that the service qualification shall not apply to the first election in an establishment which has been in existence for less than a year

39. Qualifications for voters.—All workmen, other than casual employees, who are not less than 18 years of age and who have put in not less than 6 months service in the establishment shall be entitled to vote in the election of the representatives of workmen.

40. Procedure for election—(1) The employer shall fix a date as the closing date for receiving nominations from candidates for election as workmen's representatives on the Committee.

(2) For holding the election, the employer shall also fix a date which shall not be earlier than three days and later than ten days after the closing date for receiving nominations.

(3) The dates so fixed shall be notified at least seven days in advance to the workmen and the union or unions concerned, such notice shall be affixed on the notice board or given adequate publicity amongst the workmen. The notice shall specify the number of seats to be elected by the groups, sections, shops or departments and the number to be elected by the members of the union or unions and by the non-members.

(4) A copy of such notice shall be sent to the union or unions concerned.

41. Nomination of candidates for election—(1) Every nomination shall be made on a nomination paper in form 'H', copies of which shall be supplied by the employer to the workmen requiring them.

(2) Each nomination paper must be signed by the candidate to whom it relates and attested by at least two other voters belonging to the electoral constituency and shall be delivered to the employer.

42. Scrutiny of nomination papers.—(1) On the day following the last day fixed for filing the nomination papers, the nomination papers shall be scrutinised by the employer in the presence of the candidates and the attesting persons and those which are not valid shall be rejected.

(2) For the purpose of sub-rule (1), a nomination paper shall be held to be not valid if (a) the candidate nominated is ineligible for membership under rule 38 or (b) the requirements of rule 41 have not been complied with.

43. Voting in election—(1) If the number of candidates who have been validly nominated is equal to the number of seats, the candidates shall be forthwith declared duly elected.

(2) If in any constituency the number of candidates is more than the number of seats allotted to it, voting shall take place on the day fixed for election.

(3) The election shall be held in such manner as may be convenient for each electoral constituency.

(4) The voting shall be conducted by the employer, and, if any of the workmen concerned belong to a union, by such of them as the union may nominate

44. *Arrangements for election*—The employer shall be responsible for all arrangements in connection with the election

45. *Officers of the Committee*—(1) The Committee shall elect office bearers including one Chairman, one Vice-Chairman and two Joint Secretaries.

(2) The Chairman shall be nominated by the employer from amongst the employer's representatives on the Committee

(3) The Vice-Chairman shall be elected by the Committee from amongst the workmen's representatives on the Committee

(4) The two joint Secretaries shall be elected by the Committee from among the representatives of the employer and of the workmen respectively.

46. *Term of office.*—(1) The term of office of a workmen's representative on the Committee other than a member chosen to fill a casual vacancy shall be two years.

(2) A member chosen to fill a casual vacancy shall hold office for the unexpired term of his predecessor.

47. *Vacancies.*—In the event of a workmen's representative ceasing to be employed in the establishment or in the event of his resigning the membership in the Committee, his successor shall be elected from the constituency to which the member vacating the seat belonged.

48. *Power to co-opt.*—The Committee shall have the right to co-opt in a consultative capacity persons employed in the establishment having a particular or special knowledge of a matter under discussion. Such co-opted members shall not be entitled to vote and shall be present at meetings only for the period during which the particular question is before the Committee

49. *Number of meetings.*—The Committee may meet as often as necessary but not less often than once a month.

50. *Facilities for meetings, etc.*—The employer shall provide accommodation for holding meetings of the Committee. He shall also provide all necessary facilities to the Committee and to the members thereof for carrying out the work of the Committee.

PART VI

MISCELLANEOUS

51. Memorandum of settlement.—The memorandum of settlement to be submitted by the Conciliation Officer shall be in Form D

52. Notice of strike.—(1) The notice of strike to be given by employees in a public utility service shall be in Form E.

(2) On receipt of a notice of strike under sub-rule (1), the employer shall forthwith intimate the fact to the appropriate conciliation officer in the list below¹.—

Designation & Headquarter	Province in which they have jurisdiction
1 Conciliation Officer (Central), Calcutta	West Bengal (excluding coal fields) and Orissa
2 Conciliation Officer (Central), Gauhati	Assam
3 Conciliation Officer (Central), Asansol	Bihar and coalfields in West Bengal
4 Conciliation Officer (Central), Lucknow	The United Provinces.
5. Regional Labour Commissioner (Central), Kanpur.	East Punjab, Delhi and Ajmer-Merwara
6 Conciliation Officer (Central), Bombay	Bombay
7 Conciliation Officer (Central), Nagpur	The Central Provinces and Berar
8. Conciliation Officer (Central), Poona	Bombay
9 Conciliation Officer (Central), Madras	Madras and Coorg

53. Notice of lock-out.—The notice of lock-out to be given by an employer carrying on a public utility service shall be in Form F.

54. Report of lock-out or strike.—The report of a lock-out or strike in a public utility service to be submitted by the employer under sub-section (3) of section 22, shall be in Form G

55. Report of notice of strike or lock-out.—The report of notice of a strike or lock-out to be submitted by the employer under sub-section (6) of section 22 shall be sent by registered post or given

¹ This list was substituted for the original list by the Ministry of Labour Notification No LR-1 (22) dated the 3rd April, 1948

personally to the Conciliation Officer (Central) appointed for the local area concerned, with a copy by registered post to —

- (1) The Administrative Department of the Government of India concerned,
- (2) The Regional Labour Commissioner (Central) for the Zone,
- (3) Chief Labour Commissioner (Central),
- (4) Ministry of Labour of the Government of India, and
- (5) The District Magistrate

56. Penalties.—Any breach of these rules shall be punishable with fine not exceeding fifty rupees

SCHEDULE

Form A

(See rule 3)

Form of application under sub-section (2) of section 10 of the Industrial Disputes Act, 1947 for the reference of industrial dispute to a Board of Conciliation

Court of Inquiry
Industrial Tribunal

Whereas an industrial dispute is — apprehended / exists — between .
 and and it is expedient that
the matters specified in the enclosed statement which are connected with or
the dispute
 relevant to the dispute should be referred for litigation and settlement
enquiry

By a Board of Conciliation
a Court of Enquiry , an application is hereby made under sub-
an Industrial Tribunal
 section 2 of section (10) of the Industrial Disputes Act, 1947, that the
said matters should be referred to a Board of Conciliation
said dispute a Court of Enquiry
an Industrial Tribunal

This application is made by the undersigned who have / has been duly
 authorised to do so by virtue of a resolution (copy enclosed) adopted by a
 majority of the members present at a meeting of the . . .
 held on the 19

A statement giving the particulars required under rule 3 of the Industrial
 Disputes (Central) Rules, 1947 is attached

Dated the 19 .

Signature of Applicant(s)

To

The Secretary to the Government of India,
 Ministry of Labour

Statement required under rule 3 of the Industrial Disputes (Central) Rules, 1947, to accompany the form of application prescribed under sub-section 2 of Section 10 of the Industrial Disputes Act, 1947.—

- (a) Parties to the dispute
- (b) Specific matters in dispute
- (c) Total number of workmen employed in the undertaking affected
- (d) Estimate of the number of workmen affected or likely to be affected by the dispute
- (e) Efforts made by the parties themselves to adjust the dispute

Form B

(See rule 6)

Whereas an industrial dispute has arisen between and and it is expedient to refer the said dispute under section 10 of the Industrial Disputes Act, 1947, to a Board of Conciliation for the purpose of investigating the same and for promoting a settlement thereof, you are hereby required to intimate to the under-signed not later than the , the name(s) and address(es) of one (two) person(s) whom you wish to recommend for appointment as your representative(s) on the said Board.

If you fail to make the recommendation by the date specified above, the Central Government will select and appoint such person(s) as it thinks fit to represent you

Secretary to the Government of India,
Ministry of Labour

Form C

(See rule 15)

Whereas an industrial dispute between and has been referred to this Board of Conciliation for investigation and settlement Court of Enquiry for investigation Industrial Tribunal for adjudication under section 10 of the Industrial Disputes Act, 1947, you are hereby summoned

Board
to appear before the Court in person on the day of at O'Clock in the noon to answer all material questions relating to the said dispute and you are directed to produce on that day all the books, papers and other documents and things in your possession or under your control in any way relating to the matter under investigation

by this Board
Court
Tribunal

Dated

Chairman/Secretary, Board of Conciliation
Court of Enquiry
Industrial Tribunal

Form D

(See rule 51)

Form of Memorandum of Settlement

Names of parties
 Representing employer
 Representing employees

...

Short recital of case
 Terms of agreement
 Signature of parties

Signature of Conciliation Officer
 Board of Conciliation

Form E

(See rule 52)

*Form of notice of strike to be given by employee(s) in a public utility service.***Name of Union**

Names of elected representatives of employees where no trade union exists
 Address

Dated the day of 19
 To

(The name of the employer).

Dear Sir/Sirs,

In accordance with the provisions contained in sub-section (1) of section 22 of the Industrial Disputes, Act, 1947, I hereby give you notice that I propose to call a strike
We propose to go on strike on 19 .
 for the reasons explained to the annexe

Yours faithfully,

Secretary of the Union

Representatives of the employees elected at a meeting held on

ANNEXE

Statement of the Case.

Copy to: (1) Conciliation Officer (Central)

(Here enter office address of the Conciliation Officer in the local area concerned)

(2) Regional Labour Commissioner (Central) Zone.

(3) Chief Labour Commissioner (Central), New Delhi.

Form F

(See rule 53)

*Form of notice of lock-out to be given by an employer carrying
on a Public utility service*

Name of Employer	Address
Dated the	day of 19

To

(The Secretary of the Registered Union, if any)

Dear Sir,

In accordance with the provisions of sub-section (2) of section 22 of the Industrial Disputes Act, 1947, $\frac{\text{I}}{\text{We}}$ -hereby inform you that it is $\frac{\text{my}}{\text{our}}$ intention to effect a lock-out with effect from _____ for the reasons explained in the annexe

Yours faithfully,
(*)

ANNEXE

Statement of the case

Copy to (1) Conciliation Officer (Central).

(Here enter office address of the Conciliation Officer in the local area concerned)

(2) Regional Labour Commissioner (Central) Zone.

(3) Chief Labour Commissioner (Central), New Delhi

* Here insert the position which the person who signs this letter holds with the employer issuing this letter.

Form G*(See Rule 54)*

Form of Report of Strike or Lock-out in a public utility service

Information to be supplied in this form immediately on the occurrence of a strike or lock-out in a public utility service to the Conciliation Officer (Central) for the local area concerned.

1 Name of undertaking	2 Station and District	3 Normal Working Strength		4 Number of workers involved		5 Strike or lock-out	6 Date of commencement of strike or lock-out	7 Cause	8 Was notice of strike or lock-out given if so, on what date and for what period?	9 Is there any permanent agency or agreement in the undertaking for the settlement of disputes between the employer and workmen? If any exists, particulars thereof	10 Any other information
		Directly	Indirectly	Directly	Indirectly						
1	2	3	4	5	6	7	8	9	10	11	

Note.—Column (3) Give the average number of workmen employed during the month previous to the day on which the strike or lock-out occurred. While reckoning the average, omit the day on which attendance was not normal for reasons other than individual reasons of particular workmen. Thus days on which strike or lock-out occurs or communal holiday is enjoyed by a large section of workers should be omitted.

Column (4) If say, 200 workers in a factory strike work and in consequence the whole factory employing 1,000 workers has to be closed then 200 should be shown under "directly," and the remaining under "indirectly." If the strike of 200 workers does not effect the working of the other departments of the factory, the number of workers involved would only be 200, which figure should appear under "directly" and column "indirectly" would be blank.

Column (8) Give the main causes of the dispute as well as the immediate cause that led to the strike or lock-out.

Form H

(See Rule 41)

*Form of Nomination Paper*Name of Industrial
Establishment

Group/Section/Shop/Department

I nominate

(Here enter the name of the workmen's
representative eligible for election)

as a candidate for election to the Works Committee

Signature of Proposer

Date

I agree to the proposed nomination

Signature of candidate

Date

Attested by { (1)
(2)To be signed by any two voters
belonging to the electoral
constituency**Appointment of Conciliation Officers.**

No. LR-12(20), dated the 4th February, 1949.—In exercise of the powers conferred by section 4 of the Industrial Disputes Act, 1947 (XIV of 1947), and in supersession of the notification of the Government of India in the late Department of Labour No. LR-12(20), dated the 1st April 1947, the Central Government is pleased to appoint the following officers as Conciliation Officers for (i) all industries carried on by or under the authority of the Central Government ; (ii) all Federal Railways and (iii) all mines, oilfields and major ports, namely :—

- (1) Chief Labour Commissioner (Central).
- (2) Regional Labour Commissioner (Central), Calcutta.
- (3) Regional Labour Commissioner (Central), Bombay.
- (4) Regional Labour Commissioner (Central), Dhanbad.
- (5) Regional Labour Commissioner (Central), Kanpur.
- (6) Conciliation Officer (Central), Bombay

- (7) Conciliation Officer (Central), New Delhi
- (8) Conciliation Officer (Central), Calcutta
- (9) Conciliation Officer (Central), Gauhati
- (10) Conciliation Officer (Central), Lucknow
- (11) Conciliation Officer (Central), Asansol
- (12) Conciliation Officer (Central), Madras
- (13) Conciliation Officer (Central), Nagpur
- (14) Conciliation Officer (Central), Poona

Conciliation Officers for Banking and Insurance Companies.

No LR. 12(20), dated the 16th May, 1949 —In exercise of the powers conferred by section 4 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to appoint the following officers as Conciliation Officers for all banking and insurance companies having branches or other establishments in more than one province, namely :—

- (1) Chief Labour Commissioner (Central).
- (2) Regional Labour Commissioner (Central) Calcutta
- (3) Regional Labour Commissioner (Central), Bombay
- (4) Regional Labour Commissioner (Central), Kanpur.
- (5) Regional Labour Commissioner (Central), Madras
- (6) Conciliation Officer (Central), Bombay.
- (7) Conciliation Officer (Central), New Delhi.
- (8) Conciliation Officer (Central), Calcutta
- (9) Conciliation Officer (Central), Gauhati.
- (10) Conciliation Officer (Central), Lucknow.
- (11) Conciliation Officer (Central), Asansol.
- (12) Conciliation Officer (Central), Madras.
- (13) Conciliation Officer (Central), Nagpur.
- (14) Conciliation Officer (Central), Poona.
- (15) Lady Conciliation Officer (Central), New Delhi

Authority for Service of Notice

No. LR-1(13), dated the 26th May, 1949.—In pursuance of sub-section (3) of section 22 of the Industrial Disputes Act, 1947 (XIV of 1947), and in supersession of the notification of the Government of India in the Ministry of Labour, No. LR-1(13), dated the 10th

February 1948, the Central Government is pleased to specify for the purposes of the said sub-section the officers mentioned in column 1 of the Schedule hereto annexed for the areas mentioned in the corresponding entries in column 2 of the said Schedule

SCHEDULE

1	Conciliation Officer	(Central),	West Bengal (excluding coalfields) and Orissa
	Calcutta		
2	Conciliation Officer	(Central),	Assam
	Gauhati		
3	Conciliation Officer	(Central),	Bihar and coalfields in West Bengal
	Asansol		
4	Regional Labour Commissioner (Central),	Kanpur	The United Provinces and Ajmer-Marwara
5	Conciliation Officer	(Central),	East Punjab and Delhi
	Delhi		
6	Conciliation Officer	(Central),	(Greater Bombay and Northern Revenue Division of the Govt of Bombay
	Bombay		
7	Conciliation Officer	(Central),	Central and Southern Revenue Division of the Govt of Bombay
	Poona.		
8	Conciliation Officer	(Central),	The Central Provinces and Berar
	Nagpur.		
9	Conciliation Officer	(Central),	Madras and Coorg
	Madras		

APPENDICES

APPENDIX I

THE PHILADELPHIA CHARTER

Declaration concerning the Aims and Purposes of International Labour Conference

The General Conference of the International Labour Organisation in its Twenty-sixth Session held in Philadelphia on the 10th day of May 1944, adopts the present Declaration of the aims and purposes of the International Labour Organisation and of the principles which should inspire the policy of its Members

I

The Conference reaffirms the fundamental principles on which the Organisation is based and, in particular, that.

(a) labour is not a commodity ;

(b) freedom of expression and of association are essential to sustained progress ;

(c) poverty anywhere constitutes a danger to prosperity everywhere ;

(d) the war against want requires to be carried on with unrelenting vigour within each nation and by continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of Governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare.

II

Believing that experience has fully demonstrated the truth of the statement in the Constitution of the International Labour Organisation that lasting peace can be established only if it is based on social justice, the Conference affirms that ;

(a) all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual

development in conditions of freedom and dignity of economic security and equal opportunity ;

(b) the attainment of the conditions in which this shall be possible must constitute the central aim of national and international policy ,

(c) all national and international policies and measures, in particular those of an economic and financial character, should be judged in this light and accepted only in so far as they may be held to promote and not to hinder the achievement of this fundamental objective ,

(d) it is a responsibility of the International Labour Organisation to examine and consider all international economic and financial policies and measures in the light of this fundamental objective ;

(e) in discharging the tasks entrusted to it the International Labour Organisation, having considered all relevant economic and financial factors may include in its decisions and recommendations any provisions which it considers appropriate.

III

The Conference recognises the solemn obligation of the International Labour Organisation to further among the nations of the world programmes which will achieve .

(a) full employment and the raising of standards of living ;

(b) the employment of workers in the occupations in which they can have the satisfaction of giving the fullest measure of their skill and attainments and make their greatest contribution to the common well-being ;

(c) the provision, as a means to the attainment of this end and under the adequate guarantees for all concerned, of facilities for training and the transfer of labour, including migration for employment and settlement ;

(d) policies in regard to wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of such protection ;

(e) the effective recognition of the right of collective bargaining, the co-operation of management and labour in the continuous improvement of productive efficiency, and the collaboration of workers

and employers in the preparation and application of social and economic measures

(f) the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care ,

(g) adequate protection for the life and health of workers in all occupations ;

(h) provision for child welfare and maternity protection ,

(i) the provision of adequate nutrition, housing and facilities for recreation and culture ,

(j) the assurance of equality of educational and vocational opportunity

IV

Confident that the fuller and broader utilisation of the world's productive resources necessary for the achievement of the objectives set forth in this Declaration can be secured by effective international and national action, including measures to expand production and consumption, to avoid severe economic fluctuations, to promote the economic and social advancement of the less developed regions of the world, to assure greater stability in world prices of primary products, and to promote a high and steady volume of international trade, the Conference pledges the full co-operation of the International Labour Organisation with such international bodies as may be entrusted with a share of the responsibility for this great task and for the promotion of the health, education and well-being of all peoples.

V

The Conference affirms that the principles set forth in this Declaration are fully applicable to all peoples everywhere and that while the manner of their application must be determined with due regard to the stage of social and economic development reached by each people, their progressive application to peoples who are still dependent, as well as to those who have already achieved self-government, is a matter of concern to the whole civilised world.

APPENDIX II

THE DIRECTIVE PRINCIPLES OF STATE POLICY ¹

29. *Application of the principles set forth in this Part*—The provisions contained in this Part shall not be enforceable by any Court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws

30. *State to secure a social order for the promotion and welfare of the people*—The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

31. *Certain principles of policy to be followed by the State*—The State shall, in particular, direct its policy towards securing—

- (i) that the citizens, men and women equally, have the right
— to an adequate means of livelihood ;
- (ii) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good ;
- (iii) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment ,
- (iv) that there is equal pay for equal work for both men and women ,
- (v) that the strength and health of workers, men and women and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength ,
- (vi) that childhood and youth are protected against exploitation and against moral and material abandonment

32 *Right to work, to education and to public assistance in certain cases.*—The State shall, within the limits of its economic capacity and development, make effective provision for securing the

¹ The Fundamental Rights of the Indian Citizen are sought to be preserved in Part IV of the Draft Constitution of India in the above Directive Principles. The Constitution will come into force on the 26th January, 1950.

right to work, to education and to public assistance in case of unemployment, old age, sickness, disablement, and other cases of undeserved want.

33. *Provision for just and humane conditions of work and maternity relief.*—The State shall make provision for securing just and humane conditions of work and for maternity relief.

34. *Living wage, etc., for workers.*—The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities.

35. *Uniform civil code for the citizens.*—The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

36. *Provision for free primary education*—Every citizen is entitled to free primary education and the State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

37. *Promotion of educational and economic interests of Scheduled Castes, Scheduled tribes and other weaker sections.*—The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the scheduled tribes, and shall protect them from social injustice and all forms of exploitation.

38. *Duty of the State to raise the level of nutrition and the standard of living and to improve public health.*—The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties.

39. *Protection, preservation and maintenance of monuments and places and objects of national importance.*—It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by Parliament by law to be of national importance, from spoliation, destruction, removal, disposal or export, as the case may be, and to preserve and maintain according to law made by Parliament all such monuments or places or objects.

40. *Promotion of international peace and security*—The State shall promote international peace and security by the prescription of open, just and honourable relations between nations, by the firm establishment of the understandings of international law as the actual rule of conduct among Governments and by the maintenance of justice and respect for treaty obligations in the dealings of organised people with one another.

APPENDIX III

INTERNATIONAL LABOUR CONVENTIONS¹

(1919 to 1949)

No. of Convention	Short Title of the Convention
1	Hours of Work (Industry) Convention, 1919
2	Unemployment Convention, 1919
3	Childbirth Convention, 1919.
4	Night Work (Women) Convention, 1919
5	Minimum Age (Industry) Convention, 1919.
6	Night Work (Young Persons) Convention, 1919.
7	Minimum Age (Sea) Convention, 1920
8	Unemployment Indemnity (Shipwreck) Convention, 1920
9	Placing of Seamen Convention, 1920
10	Minimum Age (Agriculture) Convention, 1921
11	Right of Association (Agriculture) Convention, 1921
12	Workmen's Compensation (Agriculture) Convention, 1921
13	White Lead (Painting) Convention, 1921
14	Weekly Rest (Industry) Convention, 1921.
15	Minimum Age (Trimmers and Stokers) Convention, 1921
16	Medical Examination of Young Persons (Sea) Convention, 1921.
17	Workmen's Compensation (Accidents) Convention, 1925.
18	Workmen's Compensation (Occupational Diseases) Convention, 1925.
19	Equality of Treatment (Accident Compensation) Convention, 1925.
20	Night Work (Bakeries) Convention, 1925
21	Inspection of Emigrants Convention, 1926.

¹ For a detailed study of the Conventions and Recommendations adopted by the International Labour Conference, see International Labour Code, 1939 published by the International Labour Office, Montreal, 1941 and Official Bulletins of the International Labour Office, Geneva.

² Short titles are contained in the texts of the Conventions adopted by the Conference since 1934.

No of Convention.	Short Title of the Convention
22.	Seamen's Articles of Agreement Convention, 1926
23.	Repatriation of Seamen Convention, 1926
24.	Sickness Insurance (Industry, etc.) Convention, 1927
25.	Sickness Insurance (Agriculture) Convention, 1927
26.	Minimum Wage-Fixing Machinery Convention, 1928
27.	Marking of Weight (Packages Transported by Vessels), Convention, 1929.
28.	Protection against Accidents (Dockers) Convention, 1929
29.	Forced Labour Convention, 1930.
30.	Hours of Work (Commerce and Offices) Convention, 1930
31.	Hours of Work (Coal Mines) Convention, 1931.
32.	Protection against Accidents (Dockers) Convention (Re- vised), 1932.
33.	Minimum Age (Non-Industrial Employment) Convention, 1932.
34.	Fee-Charging Employment Agencies Convention, 1933
35.	Old Age Insurance (Industry, etc.) Convention, 1933.
36.	Old Age Insurance (Agriculture) Convention, 1933
37.	Invalidity Insurance (Industry, etc.) Convention, 1933
38.	Invalidity Insurance (Agriculture) Convention, 1933
39.	Survivors' Insurance (Industry, etc.) Convention, 1933
40.	Survivors' Insurance (Agriculture) Convention, 1933
41.	Night Work (Women) Convention (Revised), 1934.
42.	Workmen's Compensation (Occupational Diseases) Conven- tion (Revised), 1934.
43.	Sheet-Glass-Works Convention, 1934.
44.	Unemployment Provision Convention, 1934.
45.	Underground Work (Women) Convention, 1935.
46.	Hours of Work (Coal Mines) Convention (Revised), 1935.
47.	Forty-Hour Week Convention, 1935.
48.	Maintenance of Migrants' Pension Rights Convention, 1935
49.	Reduction of Hours of Work (Glass-Bottle Works) Con- vention, 1935.
50.	Recruiting of Indigenous Workers Convention, 1936
51.	Reduction of Hours of Work (Public Works) Convention, 1936
52.	Holidays with Pay Convention, 1936.
53.	Officers' Competency Certificates Convention, 1936.

No. of Convention.	Short Title of the Convention
54	Holidays with Pay (Sea) Convention, 1936.
55	Shipowners' Liability (Sick and Injured Seamen) Convention, 1936.
56	Sickness Insurance (Sea) Convention, 1936.
57.	Hours of Work and Manning (Sea) Convention, 1936
58.	Minimum Age (Sea) Convention (Revised), 1936.
59.	Minimum Age (Industry) Convention (Revised), 1937.
60	Minimum Age (Non-Industrial Employment) Convention (Revised), 1937.
61.	Reduction of Hours of Work (Textiles) Convention, 1937
62	Safety Provisions (Building) Convention, 1937.
63.	Statistics of Wages and Hours of Work Convention, 1938
64.	Contracts of Employment (Indigenous Workers) Convention, 1939.
65	Penal Sanctions (Indigenous Workers) Convention, 1939
66	Migration for Employment Convention, 1939.
67.	Hours of Work and Rest Periods (Road Transport) Convention, 1939.
68 ¹	Food and Catering (Ship's Crews) Convention, 1946
69.	Certification of Ship's Crews Convention, 1946
70.	Social Security (Seafarers) Convention, 1946.
71.	Seafarers Pensions Convention, 1946.
72.	Paid Vacations (Seafarers) Convention, 1946.
73.	Medical Examination (Seafarers) Convention, 1946
74.	Certification of Able Seamen Convention, 1946.
75.	Accommodation of Crews Convention, 1946.
76.	Wages, Hours of Work and Manning (Sea) Convention, 1946.
77. ²	Medical Examination of Young Persons (Industry) Convention, 1946.
78	Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946.
79.	Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946.
80.	Final Articles Revision Convention, 1946

¹ Conventions Nos. 68 to 76 were adopted at the 28th Session of the International Labour Conference held at Seattle in June, 1946.

² Conventions Nos. 77-80 were adopted by the International Labour Conference at its 29th Session held at Montreal in September, 1946

No. of Convention	Short Title of the Convention
81.	Labour Inspection Convention, 1947
82.	Social Policy (Non-Metropolitan Territories) Convention, 1947
83.	Labour Standards (Non-Metropolitan Territories) Convention, 1947.
84.	Right of Association (Non-Metropolitan Territories) Convention, 1947
85.	Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947
86.	Contracts of Employment (Indigenous Workers) Convention, 1947.
87.	Freedom of Association and Protection of the Right to Organise Convention, 1948.
88.	Employment Service Convention, 1948.
89.	Night Work (Women) Convention (Revised), 1948
90.	Night Work of Young Persons (Industry) Convention, 1948.
91.	Vacation Holidays with Pay for Seafarers Convention (Revised), 1949.
92.	Crew Accommodation on Board Ship Convention (Revised), 1949.
93.	Wages, Hours of Work on Board Ship and Manning Convention (Revised), 1949.
94.	Labour Clauses in Public Contracts Convention, 1949
95.	Protection of Wages Convention, 1949.
96.	Fee-changing Employment Agency Convention (Revised), 1949.
97.	Migration for Employment Convention (Revised), 1949.
98.	Application of the Principles of the Right to Organise and to Bargain Collectively Convention, 1949

RATIFICATION BY INDIA

Out of 98 Conventions adopted by the International Labour Conference from 1919 to 1949, India has ratified the following 17 Conventions :

Convention Nos. 1, 4, 6, 11, 14, 15, 16, 18, 19, 21, 22, 27, 32, 41, 45, 80 and 81

APPENDIX IV

RESOLUTION ON FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE AND BARGAIN COLLECTIVELY ¹

I. Freedom of Association.

1. Employers and workers, without distinction whatsoever, should have the inviolable right to establish or join organisations of their own choosing without previous authorisation.

2. Employers' and workers' organisations should have the right to draw up their constitutions and rules, to organise their administration and activities and to formulate their programmes ; there should be no interference on the part of the public authorities which would restrict this right or impede the organisations in the lawful exercise of this right.

3. Employers' and workers' organisations should not be liable to be dissolved or have their activities suspended by administrative authority.

4. Employers' and workers' organisations should have the right to establish federations and confederations as well as the right of affiliation with international organisation of employers and workers

5. The guarantees defined in paragraphs 1, 2 and 3 herein, with regard to the establishment, functioning, dissolution and suspension of employers' and workers' organisations should apply to federations and confederations of such organisations.

6. The acquisition of legal personality by employers' and workers' organisations should not be made subject to conditions of such a character as to restrict freedom of association as hereinbefore defined.

7. The acquisition and exercise of the rights as outlined in this part should not exempt the employers' and workers' organisations from their full share of responsibilities and obligations.

¹ This Resolution was adopted on the 9th June, 1947 at the 30th Session of the International Labour Conference held at Geneva

II. Protection of the Right to Organise and to Bargain Collectively.

8. There should be agreement between organised employers and workers mutually to respect the exercise of the right of association

9. (1) Where full and effective protection is not already afforded, appropriate measures should be taken to enable guarantees to be provided for :

(a) the exercise of the right of freedom of association without fear of intimidation, coercion or restraint from any source with the object of :

- (i) making the employment of the worker conditional on his not joining a trade union or on his withdrawing from a trade union of which he is member ;
- (ii) prejudicing a worker because he is a member or agent or official of a trade union ;
- (iii) dismissing a worker because he is a member or agent or official of trade union.

(b) the exercise of the right of association by workers' organisations in such a way as to prevent any acts on the part of the employer or employers' organisations or their agents with the object of :

- (i) furthering the establishment of trade unions under the domination of employers ;
- (ii) interfering with the formation or administration of a trade union or contributing financial or other support to it ;
- (iii) refusing to give practical effect to the principles of trade union recognition and collective bargaining.

(2) It should be understood, however, that a provision in a freely concluded collective agreement making membership of a certain trade union a condition precedent to employment or a condition of continued employment does not fall within the terms of this Resolution.

10. Appropriate agencies should be established, if necessary, for the purpose of ensuring the protection of the right of association as defined in paragraph 9 herein.

APPENDIX V

FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE CONVENTION, 1948¹

PART I

Freedom of Association

Article 1

Each Member of the International Labour Organisation for which this Convention is in force undertakes to give effect to the following provisions.

Article 2

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

Article 3

1. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.

2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof

Article 4

Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority

Article 5

Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.

¹ This Convention (No 87) was adopted on the 9th July, 1948 at the 31st Session of the International Labour Conference held at Geneva

Article 6

The provisions of Articles 2, 3 and 4 hereof apply to federations and confederations of workers' and employers' organisations

Article 7

The acquisition of legal personality by workers' and employers' organisations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of Articles 2, and 4 hereof

Article 8

1. In exercising the rights provided for in this Convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.

2. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.

Article 9

1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations

2. In accordance with the principle set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

Article 10

In this Convention the term "Organisation" means any organisation of workers or of employers for furthering and defending the interests of workers or of employers.

PART II

Protection of the Right to Organise

Article 11

Each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.

APPENDIX VI

CONVENTION CONCERNING THE APPLICATION OF THE PRINCIPLES OF THE RIGHT TO ORGANISE AND TO BARGAIN COLLECTIVELY, 1949¹

Article 1

1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

2. Such protection shall apply more particularly in respect of acts calculated to—

(a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership ;

(b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours

Article 2

1. Workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other or each others' agents or members in their establishment, functioning or administration

2. In particular, acts which are designed to promote the establishment of workers' organisations under the domination of employers or employers' organisations, or to support workers' organisations by financial or other means, with the object of placing such organisations under the control of employers' or employers' organisations, shall be deemed to constitute acts of interference within the meaning of this Article

Article 3

Machinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring respect for the right to organise as defined in the preceding articles.

¹ This Convention (No 98) was adopted by the International Labour Conference at its 32nd Session held at Geneva during June-July, 1949.

Article 4

Measures appropriate to national conditions shall be taken where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements

Article 5

1 The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

2. In accordance with the principle set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

Article 6

This Convention does not deal with the position of public servants engaged in the administration of the State, nor shall it be construed as prejudicing their rights or status in any way

APPENDIX VII

PROGRESS OF LABOUR LEGISLATION IN INDIA

Labour Laws passed by the Indian Legislature from 1859 to 1949

1859

Workmen's Breach of Contract Act, 1859 (VIII of 1859)

1860

Employers' and Workmen's (Disputes) Act, 1860 (IX of 1860)

1881

Indian Factories Act, 1881 (XV of 1881)

1891

Indian Factories (Amendment) Act, 1891 (XI of 1891).

1901

Assam Labour and Emigration Act, 1901 (VI of 1901)

Indian Mines Act, 1901 (VIII of 1901).

1908

Assam Labour and Emigration (Amendment) Act, 1908 (XI of 1908)

Indian Ports Act, 1908 (XV of 1908).

1911

Indian Factories Act, 1911 (XII of 1911)

1922

Indian Factories (Amendment) Act, 1922 (II of 1922)

Indian Ports (Amendment) Act, 1922 (XV of 1922)

1923

Indian Mines Act, 1923 (IV of 1923)

Indian Boilers Act, 1923 (V of 1923).

Workmen's Compensation Act, 1923 (VIII of 1923)

Indian Factories (Amendment) Act, 1923 (IX of 1923).

Indian Merchant Shipping Act, 1923 (XXI of 1923)

1924

Repealing and Amending Act, 1924 (VII of 1924)
(amending Workmen's Compensation Act, 1923)

1925

Workmen's Breach of Contract (Repealing) Act, 1925 (III of 1925)
Cotton Ginning and Pressing Factories Act, 1925 (XII of 1925)
Repealing and Amending Act, 1925 (XXXVII of 1925)
(amending Indian Mines Act, 1923 (IV of 1923) and Workmen's
Compensation Act, 1923 (VIII of 1923))

1926

Indian Trade Unions Act, 1926 (XVI of 1926)
Cotton Industry (Statistics) Act, 1926 (XX of 1926)
Indian Factories (Amendment) Act 1926 (XXVI of 1926)
Workmen's Compensation (Amendment) Act, 1926 (XXIX of 1926)

1927

Repealing Act, 1927 (XII of 1927).
(amending Indian Mines Act, 1923 (IV of 1923) and Indian Boilers
Act, 1923 (V of 1923))

1928

Indian Mines (Amendment) Act, 1928 (XIII of 1928)
Indian Trade Unions (Amendment) Act, 1928 (XV of 1928)

1929

Workmen's Compensation (Amendment) Act, 1929 (V of 1929)
Trade Disputes Act, 1929 (VII of 1929).
Indian Boilers (Amendment) Act, 1929 (IX of 1929)

1930

Indian Railways (Amendment) Act, 1930 (XIV of 1930)

1931

Indian Merchant Shipping (Amendment) Act, 1931 (IX of 1931).
Indian Ports (Amendment) Act, 1931 (XI of 1931).
Indian Factories (Amendment) Act, 1931 (XIII of 1931)
Indian Mines (Amendment) Act, 1931 (XXI of 1931).

1932

Employers' and Workmen's (Disputes) Repealing Act, 1932 (II of 1932).

Trade Disputes (Amendment) Act, 1932 (XIX of 1932).

Tea Districts Emigrant Labour Act, 1932 (XXII of 1932)

1933

Children (Pledging of Labour) Act, 1933 (II of 1933).

Workmen's Compensation (Amendment) Act, 1933 (XV of 1933)

Land Acquisition (Amendment) Act, 1933 (XVI of 1933)

1934

Trade Disputes (Extending) Act, 1934 (XIII of 1934)

Indian Dock Labourers' Act, 1934 (XIX of 1934)

Factories Act, 1934 (XXV of 1934)

1935

Indian Mines (Amendment) Act, 1935 (V of 1935)

Factories (Amendment) Act, 1935 (XI of 1935)

1936

Payment of Wages Act, 1936 (IV of 1936)

Factories (Amendment) Act, 1936 (VIII of 1936).

Indian Mines (Amendment) Act, 1936 (XI of 1936)

Code of Civil Procedure (Amendment) Act, 1936 (XXI of 1936)

1937

Workmen's Compensation (Amendment) Act, 1937 (VII of 1937).

Code of Civil Procedure (Second Amendment) Act, 1937 (IX of 1937).

Indian Boilers (Amendment) Act, 1937 (XI of 1937).

Repealing and Amending Act, 1937 (XX of 1937).

(amending Factories Act, 1934 & Payment of Wages Act, 1936).

Payment of Wages (Amendment) Act, 1937 (XXII of 1937)

Indian Mines (Amendment) Act, 1937 (XXIX of 1937).

1938

Workmen's Compensation (Amendment) Act, 1938 (IX of 1938)

Trade Disputes (Amendment) Act, 1938 (XVII of 1938).

Indian Emigration (Amendment) Act, 1938 (XXI of 1938)

Employer's Liability Act, 1938 (XXIV of 1938).

Employment of Children Act, 1938 (XXVI of 1938).

1939

Motor Vehicles Act, 1939 (IV of 1939)
Indian Merchant Shipping (Amendment) Act, 1939 (VI of 1939).
Workmen's Compensation (Amendment) Act, 1939 (XIII of 1939)
Cotton Ginning and Pressing Factories (Amendment) Act, 1939
(XIV of 1939).
Employment of Children (Amendment) Act, 1939 (XV of 1939)
Coal Mines Safety (Stowing) Act, 1939 (XIX of 1939)
Workmen's Compensation (Second Amendment) Act, 1939 (XLII of
1939).

1940

Coal Mines Safety (Stowing) Amendment Act, 1940 (XI of 1940).
Factories (Amendment) Act, 1940 (XVII of 1940).
Indian Mines (Amendment) Act, 1940 (XXIV of 1940)
Payment of Wages (Amendment) Ordinance, 1940 (III of 1940).

1941

Factories (Amendment) Act, 1941 (XVI of 1941).
Mines Maternity Benefit Act, 1941 (XIX of 1941).
Essential Services Maintenance Ordinance, 1941 (XI of 1941).

1942

Workmen's Compensation (Amendment) Act, 1942 (I of 1942).
Indian Boilers (Amendment) Act, 1942 (V of 1942).
Cotton Ginning & Pressing Factories (Amendment) Act, 1942 (IX
of 1942).
Weekly Holidays Act, 1942 (XVIII of 1942).
Industrial Statistics Act, 1942 (XIX of 1942).
Repealing and Amending Act, 1942 (XXV of 1942) amending Indian
Trade Unions Act, 1926.
Coal Mines Safety (Stowing) Amendment Ordinance, 1942 (XXV of
1942).
Railways (Hours of Employment) Ordinance, 1942 (XLV of 1942).

1943

Indian Boilers (Amendment) Act, 1943 (XVII of 1943).
Mines Maternity Benefit (Amendment) Act, 1943 (XVIII of 1943).
War Injuries (Compensation Insurance) Act, 1943 (XXIII of 1943).

Motor Vehicles (Amendment) Act, 1943.

Factories (Control of Dismantling) Ordinance, 1943 (XXXI of 1943).

1944

Coal Mines Safety (Stowing) Amendment Act, 1944 (III of 1944).

Factories (Amendment) Act, 1944 (XIV of 1944).

Coal Mines Labour Welfare Fund Ordinance, 1944 (VII of 1944).

Coal Mines Labour Welfare Fund (Amendment) Ordinance (XXVII of 1944).

1945

Factories (Amendment) Act, 1945 (III of 1945).

Mines Maternity Benefit (Amendment) Act, 1945 (X of 1945).

Mines (Amendment) Ordinance, 1945 (XVII of 1945).

1946

Workmen's Compensation (Amendment) Act, 1946 (I of 1946).

Indian Mines (Amendment) Act, 1946 (II of 1946).

Factories (Amendment) Act, 1946 (X of 1946).

Industrial Employment (Standing Orders) Act, 1946 (XX of 1946).

Mica Mines Labour Welfare Fund Act, 1946 (XXII of 1946).

1947

Factories (Amendment) Act, 1947 (V of 1947).

Industrial Disputes Act, 1947 (XIV of 1947).

Coal Mines Labour Welfare Fund Act, 1947 (XXXII of 1947).

Indian Boilers (Amendment) Act, 1947 (XXXIV of 1947).

Indian Trade Unions (Amendment) Act, 1947 (XLV of 1947).

1948

Dock Workers (Regulation of Employment) Act, 1948 (IX of 1948).

Minimum Wages Act, 1948 (XI of 1948).

Employees' State Insurance Act, 1948 (XXXIV of 1948).

Coal Mines Provident Fund and Bonus Schemes Ordinance, 1948 (VII of 1948).

Coal Mines Provident Fund and Bonus Schemes Act, 1948 (XLVI of 1948).

Factories Act, 1948 (LXIII of 1948).

1949

Coal Mines Labour Welfare Fund (Amendment) Act, 1949 (XXVIII of 1949).

Dock Workers (Regulation of Employment) Amendment Act, 1949 (XXIX of 1949).

Repealing and Amending Act, 1949 (XL of 1949)

(amending Coal Mines Provident Fund and Bonus Schemes Act, 1948, Factories Act, 1948 and Employment of Children Act, 1938)

Industrial Disputes (Banking and Insurance Companies) Ordinance, 1949 (VI of 1949).

Industrial Tribunals Payment of Bonus (National Savings Certificates) Ordinance, 1949 (XI of 1949).

APPENDIX VIII

FIVE-YEAR LABOUR PROGRAMME OF THE GOVERNMENT OF INDIA ¹

The Labour Department of the Government of India under the able guidance of Hon'ble Minister Sri Jagjivan Ram, has drawn up in September 1946, a Five-Year Programme of legislative and administrative measures to be undertaken by the Central Government for amelioration of labour conditions in India. The Programme was discussed and approved of, at Conferences with Provincial Labour Ministers, of States' Ministers and representatives of employers' and workers' organisations.

The Programme was formulated to remove the chief defects revealed by the Royal Commission on Labour in 1931 and the Labour Investigation Committee in 1946.

The Programme aims at a uniform co-ordinated labour policy for the entire country to promote social security and industrial peace, ensure fair wages and satisfactory conditions of work and embraces not only workers in organised industries but also workers in agriculture, commercial undertakings and unorganised industries. In enacting legislative measures for giving effect to the Programme, effort will be made to implement the International Labour Conventions as far as possible. Tripartite Industrial Committees on the model of International Labour Organisation, have been proposed to be set up in Coal, Plantation, Jute, Cotton Textiles and Engineering Industries. The Programme provides for creation of a Labour Bureau for collection and maintenance of statistics relative to cost of living and labour statistics.

A brief Summary of the Programme is given below :—

(1) Legislation :

- (i) Revision of the Factories Act,²
- (ii) Enactment of Health Insurance Legislation.³

¹ See Indian Labour Gazette, March and June, 1947 and International Labour Review, May 1947.

² Factories Act was passed in 1948 (LXIII of 1948) and has come into force from the 1st April, 1949.

³ Employees State Insurance Act, 1948 was passed on 2nd April, 1948 (XXXIV of 1948) and Chapters I to III and VIII have come into force.

- (iii) Minimum Wage Legislation ¹
- (iv) Amendment of the Trade Unions Act,²
- (v) Trade Disputes Legislation,³
- (vi) Revision of the Workmen's Compensation Act,
- (vii) A Central Act for Maternity Benefits,
- (viii) A Central Act regulating conditions of work in Shops and Commercial Undertakings,
- (ix) Legislation for regulating conditions of work in Road Transport and other Services, viz., Tramways and Motor Vehicles plying for passenger or goods traffic, Dock⁴ and Municipal labour,
- (x) Revision of Mines Act,⁵
- (xi) Legislation to replace the Ordinance constituting the Coal Mines Welfare Fund,⁶ and for providing dispensary service for Coal Miners.
- (xii) Revision of the Payment of Wages Act,
- (xiii) Legislation for enforcing improvements in the working conditions in Plantations.⁷

(2) Administrative Measures :

A. Provincial.

- (a) Expansion of the Factory Inspection Services,⁸
- (b) Organisation of an Inspectorate for enforcing legislation relating to the regulation of conditions of workers in Shops and Commercial Undertakings, Transport services and Plantations, Maternity Act, etc.,

¹ Minimum Wages Act was passed in February, 1948 (XI of 1948).

² Indian Trade Unions (Amendment) Act, 1947 was passed in November, 1947 (XIV of 1947) and further amendment is contemplated.

³ Industrial Disputes Act, 1947 was passed in March, 1947 (XIV of 1947) and further amendment is under contemplation.

⁴ Dock Workers (Regulation of Employment) Act was passed in February, 1948 (IX of 1948) and amended in 1949.

⁵ Government's proposal for amendment was discussed in the First Meeting of the Industrial Committee on Coal Mining held at Dhanbad on the 23rd and 24th January, 1948.

⁶ Coal Mines Labour Welfare Fund Act, 1947 was passed in March, 1947 (XXXII of 1947) and Rules under the Act providing dispensary services were published.

⁷ Outlines of the proposed Plantation Legislation was discussed in the Second Meeting of the Industrial Committee on Plantations held in New Delhi from 31st March to 2nd April, 1948 and will be further discussed in the First Meeting of the Standing Plantation Committee.

⁸ Provincial Governments, having expanded the Factory Inspection Service, the Central Government has recently ratified I. L. O. Convention No. 81 Labour Inspection Convention, 1947.

(c) Setting up of an Administrative Organisation for prescribing and enforcing minimum wages in 'sweated' industries,

¹(d) Conciliation and Adjudication Machinery,

(e) Labour Welfare Organisation,

²(f) Housing,

(g) Provision of medical service in connection with the Health Insurance Scheme,

(h) Extension of measures recently taken by the Central Government for the benefit of workers in road construction and buildings to similar categories in the Provinces, and

(i) Co-operation between Central and Provincial Government in regard to—

(i) collection and maintenance of statistics relative to cost of living indices and labour statistics ;

(ii) exchange of information regarding labour situation ;

(iii) conduct of enquiry into earnings of agricultural labour.

B. *Central :*

(a) Organisation of the Workmen's State Insurance Corporation,³

(b) Organisation of the Chief Adviser, Factories,⁴

(c) Expansion of the Mines Inspectorate,⁵

(d) Constitution of Labour Bureau,⁶

(e) Conciliation and Adjudication Machinery for Central undertakings and for Centrally administered areas⁷,

(f) Administration of the Coal Mines and Mica Mines Welfare Funds,

¹ Provincial Conciliation Machinery strengthened and Industrial Courts and Industrial Tribunals set up.

² Bombay Housing Board Act, 1948 was passed and some principal Governments have prepared housing schemes.

³ Constituted under Ministry of Labour Notification dated the 6th September, 1948.

⁴ Already set up by the Government of India.

⁵ The staff has been strengthened and a scheme is being considered for sending Inspectors of Mines to foreign countries by rotation to study up-to-date methods.

⁶ Constituted on 1st October, 1946.

⁷ Several Conciliation Officers were appointed and two permanent Industrial Tribunals were set up at Dhanbad and Calcutta. One Tribunal for adjudicating industrial disputes regarding Banking Companies has been appointed.

- (g) Organisation of training courses for candidates for appointments as Labour Welfare¹ or Personal Relations Officers either under Government or Private employers,
- (h) Machinery to co-ordinate the execution of Housing Schemes²,
- (i) Organisation and expansion of Employment Exchanges, Services

(3) Joint Measures :

- (a) Study of wage and dearness allowance structure with a view to standardising occupational terms and wages and the determination of differentials in wage rates as between various occupation in an industry, and the promotion of agreements for the payment of a fair wage to all workers,
- (b) Measures for securing a living wage to miners and plantation workers,
- (c) Study of administrative and financial aspects of Unemployment Insurance,
- (d) Elimination and regulation of contract labour,
- (e) Reform of the system of recruitment with a view to the elimination of middlemen,
- (f) Institution and expansion of schemes for imparting training to workers, including miners, with a view to improve their productive and earning capacity,
- (g) Standardisation, as far as possible, of terms of service and the evolution of fair conditions of service, particularly relating to security of tenure,
- (h) Constitution of Joint Works Committee of Employers and Workers,
- (i) Constitution of Industrial Committees³ for Coal, Plantations, Jute, Cotton Textiles and Engineering Industries.

¹ The Central Government has sanctioned a capital grant to the Calcutta University for their Labour Welfare Officer, Training Course

² The Central Government's Scheme of industrial housing suggesting constitution of Central and Regional Housing Boards, were circulated to the Provincial Governments in April, 1949.

³ Separate Industrial Committees on Cement, Coal Mining, Cotton Textiles, Plantation and Tannery and Leather Goods Manufactures on tripartite basis have been set up and meeting have already been held. Steps are being taken to constitute the Industrial Committee on Jute.

APPENDIX IX

RESOLUTION ON INDUSTRIAL TRUCE¹

This Conference considers that the increase in industrial production which is so vital to the economy of the country cannot be achieved without the fullest co-operation between labour and management and stable and friendly relations between them. The employer must recognise the proper role of labour in industry and the need to secure for labour fair wages and working conditions ; labour for its part must give equal recognition to its duty in contributing to the increase of the national income without which a permanent rise in the general standard of living cannot be achieved. Mutual discussion of all problems common to both and a determination to settle all disputes without recourse to interruption in or slowing down of production should be the common aim of employers and labour. The system of remuneration to capital as well as labour must be so devised that while in the interests of the consumers and the primary producers excessive profits should be prevented by suitable measures of taxation and otherwise, both will share the product of their common effort after making provision for payment of fair wages to labour, a fair return on capital employed in the industry and reasonable reserves for the maintenance and expansion of the undertaking.

For attaining these objectives, this Conference recommends :

- (a) that the fullest use should be made of statutory and other machinery for the resolution of industrial disputes in a just and peaceful manner ; where it does not exist, it should be created without delay. Such machinery should as far as possible be uniform throughout India
- (b) that the establishment of machinery, Central, Regional and Functional, for the study and determination of fair wages and conditions of labour, and fair remuneration for capital, and methods for the association of labour in

¹ A Tripartite Conference to discuss some urgent problems relating to industrial development in India and to bring industrial peace, was convened by the Industry and Supply Minister, Government of India in December, 1947 and this Resolution was unanimously adopted by the representatives of different Governments, employers and industrial labour

all matters concerning industrial production, such as the formation of Central, Regional and Unit Production Committees

- (c) that the constitution in each industrial undertaking of Works Committees representing management and duly elected representatives of labour for the settlement of any dispute which may arise from day to day
- (d) that, as a first step towards improving the standard of living of workers, immediate attention should be devoted to the problem of housing of industrial labour ; the cost of such housing should be shared in suitable proportions between the Government, employers and labour, the share of labour being given in the shape of a reasonable rent.

The principles enunciated above having been accepted, this Conference calls upon labour and management to agree to maintain industrial peace and to avert lock-outs, strikes or slowing down of production during the next 3 years.

This Conference invites labour and management to assist Government to secure, promote and guarantee such agreements between the parties as will usher in a period of contented and orderly advancement towards a co-operative Commonwealth.

APPENDIX X

INVOLUNTARY UNEMPLOYMENT SCHEME.¹

Copy of letter No. L-1891, dated 12th June 1944, from the Deputy Secretary to the Government of India, Department of Labour, to all Provincial Governments, etc.

Compensation for involuntary unemployment due to shortage of coal, raw materials or changes in lines of production.

I am to invite attention to the discussion on the above subject at the Tripartite Labour Conference held in September 1943. It has not been easy to evolve precise proposals in this matter in view of the difference on some points apparent at the discussion and the need to meet varying conditions to which the proposals may apply. Proposals for compensation for involuntary unemployment of the kind referred to have to be considered not only with reference to possible schemes of unemployment insurance, but also with reference to the obligation of Governments to grant relief where found necessary.

2. The Government of India feel that while it is not possible to propound a fully co-ordinated scheme in this respect which can be statutorily imposed, it is advisable that they should formulate certain principles which may suitably be considered by Provincial Governments and employers when occasion arises. The adoption of measures on the lines of those in the Annexure by all concerned would achieve a desirable uniformity in India. The Governments of individual States represented at the Labour Conference are also being apprised of the Government of India's proposals.

3. I am to add that the Government of India will act on the principles stated in the Annexure, in respect of their own industrial establishments.

¹ The proposal for payment of compensation for involuntary unemployment was discussed in the Indian Labour Conference held in 1943 but as there was no unanimous decision and definite scheme on the subject, the Central Government formulated an Involuntary Unemployment Scheme and forwarded it to the Provincial Governments and employers suggesting that the principles enumerated in the scheme should be adopted to achieve uniformity throughout India.

ANNEXURE**(1) Kinds of unemployment covered**

(a) The proposals relate only to short-term unemployment, during the period of the war due to shortage of coal or raw materials or changes in lines of production of which adequate notice cannot be given.

(b) The proposals do not cover closures of factories or of departments due to special Government orders

(c) The proposals do not cover closures of which adequate notice is given under Standing Orders, whether statutory or voluntary

(2) Benefits to be given

(a) Benefit which should be on a scale lower than the ordinary rate of pay may be fixed in either of two ways :—

(i) Seventy-five per cent. of the ordinary rate of pay for first fortnight of unemployment and 50 per cent. of the ordinary rate of pay for the second fortnight of unemployment with possibly a flat rate of benefit for persons drawing lower levels of income.

(ii) A flat rate which would be about 75 per cent. of the average of lower range of wages rates in the undertaking.

(b) Duration of benefit should be one month in each half year, allowing for a waiting period of 7 days (benefit however to start from the first day of unemployment provided the unemployment lasts longer than the waiting period.)

(c) This special unemployment benefit will not qualify a worker for bonuses determined by reference to earnings over any period.

(d) The cost of benefits will be admitted as revenue expenditure for Income-tax and Excess Profit Tax purposes

(3) Conditions attached to benefit

(a) To qualify for benefit a worker must answer to a muster roll once a day at his usual place of employment or, with the permission of the employer, at any other place.

(b) A worker will be ineligible for benefit if he unreasonably refuses work even of a different sort in his usual factory or (provided employment offered is in the same locality) by transfer from one department to another in the same undertaking or industry (or from one industry to another). In case of dispute whether an objection to transfer was reasonable or not, an authority designated by the Provincial Government shall decide finally. For the transfer of Labour from one industry to another use will be made of the Employment Exchanges in respect of skilled and semi-skilled personnel and in the unskilled labour Supply Committee in respect of unskilled labour

(c) The employer will not be entitled to discharge during the benefit period any worker who has been in continuous employment with the same employer or in the same industry in that locality for a period of not less than three months

(4) Benefit by whom

The liability to pay benefit will be on the employer.

(5) Industries covered

All industries should be covered whether engaged on war industry or otherwise

(6) Methods of ensuring payment of benefit.

A Province (or State) should use its good offices or conciliatory powers to persuade employers to pay: though in suitable cases disputes in this regard can be referred to adjudication under Defence of India Rule 81A

Where voluntary agreement between the employer and the workers has been reached or where the Provincial Government is satisfied as to the detailed measures of benefit necessary, the agreement or the details could be embodied in an order to be passed under Defence of India Rule 81A (1) (b) after consultation in individual cases with the Central Government

The State Governments will utilise the appropriate legal machinery available to them

Copy of letter No. L-1891, dated 1st March 1946, from the Deputy Secretary to the Government of India, Department of Labour, to all Provincial Governments, etc.

Compensation for involuntary unemployment due to shortage of coal, raw materials or changes in the lines of production.

I am directed to invite attention to this Department letters No. L-1891, dated 12th June 1944 and 9th November 1945, on the above subject. As a result of consultations with the Provincial Governments and the employing Departments of the Government of India, and of discussions at the Seventh Labour Conference held in November 1945, the Government of India have decided that the sub-clause (b) of clause 2 of the scheme detailed in Annexure to this department letter No. L-1891, dated 12th June 1944, should be amended to read as under :—

“Duration of benefit should be one month in each half year. No benefit will be given in the half-yearly periods January to June or July to December until the number of days of involuntary unemployment has exceeded seven in the aggregate in the half year.”

It has been further decided that the scheme should be retained till the war time controls are lifted and unemployment due to shortage of coal, raw materials, or changes in lines of production ceases to be of serious moment.

APPENDIX XI

MODEL PROVIDENT FUND RULES FOR INDUSTRIAL EMPLOYEES¹

1. *Definitions*.—In these rules, unless there is anything repugnant in the subject or context—

(1) "Board" means the Board of Trustees constituted under rule 2 ;

(2) "children" means legitimate children and step-children, but includes adopted children only if the Board is satisfied that under the personal law of the subscriber, adoption is legally recognised as conferring the status of a natural child ;

(3) "emoluments" means pay in cash drawn monthly by an employee including any wages paid to employee not remunerated by fixed monthly pay but does not, include any overtime allowances, any dearness allowance, or bonuses ;

Provided that the monthly emoluments of an employee paid at daily rates shall be deemed to be 24/25/26 times his daily rate of wages admissible to him for the first normal working day of the month ;

(4) "family" means—

(a) in the case of a male subscriber, the wife, or wives and children of the subscriber, and the widow or widows, and children of a deceased son of the subscriber :

¹ These Model Rules were prepared by the Government of India and submitted for discussion at the 5th Labour Conference held in September 1943 and after further discussion in the 4th Meeting of the Standing Labour Committee in January 1949, were circulated to the Provinces, Employers and Employees' Associations for information. The question of compulsory Provident Funds for industrial workers was discussed in the 10th meeting of the Standing Labour Committee and 9th Session of the Labour Conference held in April 1948 and it was pointed out that a compulsory Provident Fund Scheme was started for the colliery workers in Bihar, Bengal and Central Provinces on the recommendation of the Board of Conciliation (Colliery Dispute) and this scheme, if proved successful, will be introduced in other industries and the Government of India will prepare scheme for other industrial workers. The Industrial Tribunals in their awards directed the employers to provide a scheme of Provident Fund for their employees and suggested to accept the Model Rules as their guidance.

Mr. R. K. Sidhwa's Workers' Provident Fund Bill compulsorily applicable to factory and certain section of transport workers earning a monthly wages of Rs. 20/- or more, was introduced in the Constituent Assembly and was circulated for eliciting public opinion.

Provided that if a subscriber proves that his wife has been judicially separated from him or has ceased under the customary law of the community to which she belongs to be entitled to maintenance, she shall henceforth be deemed to be no longer a member of the subscriber's family unless the subscriber subsequently indicates by express intimation in writing to the Board that she shall continue to be so regarded ;

(b) in the case of a female subscriber, the husband and children of the subscriber and the widow or widows and children of a deceased son of the subscriber .

Provided that if a subscriber by intimation in writing to the Board expresses her desire to exclude her husband from the family, the husband shall henceforth be deemed to be no longer a member of the subscriber's family unless the subscriber subsequently cancels formally in writing her intimation excluding him .

Provided further that, in either case, if the child of a subscriber has been adopted by another person and if, under the personal law of the adopter, adoption is legally recognised as conferring the status of a natural child, such a child shall be considered as excluded from the family of the subscriber ;

(5) "Fund" means the Provident Fund in force in ,

(6) "Subscriber" means an employee who is required under these rules or is permitted by the employer to subscribe to the Fund

2. *Constitution and Management of the Fund* —(1) The Fund shall be administered by a Board of Trustees formed with an equal number of representatives of the employer and the subscribers. The total strength of the Board shall not exceed ten.

(2) The Board shall elect its own President, and he shall exercise his individual vote on any question under discussion in the Board but shall not have the right to a casting vote.

(3) The employer shall have the right to appoint a substitute if during the course of the working year of the Board a vacancy occurs among the representatives nominated by him

(4) The subscribers shall have the right to elect a substitute for any of their representatives who resigns from the Board or ceases to be a subscriber during the term of office of the Board.

(5) The term of office of each Board of Trustees shall be one year from the date of its constitution. . .

(6) The subscribers shall elect their representative to the Board each year at a general meeting held specifically for the purpose and the employer shall nominate his representatives as soon as possible thereafter

(7) The Board shall elect or appoint its own Secretary, and he shall keep a record of the decisions of the Board and the accounts of the Fund. He shall also be responsible for keeping the records of the Board

(8) Out of the moneys received from time to time the Board may keep in an account or accounts in any Bank or Banks, a sum not exceeding Rupees. . . . The Board may authorise its Secretary to operate on the Bank account up to a sum not exceeding Rupees . . .

(9) The annual general meeting of the subscribers shall ordinarily be held in the month of each year.

(10) The Board shall meet at least once a quarter, and one half of the total membership shall form a quorum.

(11) The accounts of the Fund shall be audited by an Auditor appointed annually by the Board for the purpose. The Auditor's report on the accounts shall be made available to the subscribers and to the employer.

3. (1) *Compulsory Subscribers*: Every non-pensionable employee who has worked for not less than 200 days in a year or for 300 days during two years and whose monthly emoluments are not less than Rs. 25 shall subscribe to the Fund in accordance with these rules.

(2) *Optional Subscribers*: An employee whose monthly emoluments are less than Rs. 25 and who has worked for not less than 200 days during a year or for 300 days during 2 years may also subscribe to the Fund in accordance with the Rules, if so permitted by the employer

4. *Nomination*: (1) The Board shall require every subscriber to make a nomination conferring the right to receive the amount that may stand to his credit in the Fund in the event of his death occurring before the amount standing to his credit has become payable.

Provided that a subscriber may modify a nomination once made after giving written notice of his intention of doing so.

(2) Nomination shall save as hereinafter provided be in favour of one or more members of the subscriber's family and shall be made in the appended form. If a subscriber nominates more nominees than one, he may apportion the amount that may stand to his credit in

the Fund amongst his nominees at his own discretion. If, at the time of making the nomination, the subscriber has no family, the nomination may be in favour of any other person or persons, but if the subscriber subsequently acquires a family, such nomination shall forthwith stand cancelled.

5. *Subscriber's Account*: (1) An account shall be opened in the name of each subscriber in which shall be credited:—

- (i) the subscriber's subscription;
- (ii) the contribution made by the employer to the subscriber's account;
- (iii) the interest on the total moneys in the subscriber's account.

(2) Each subscriber shall be given a pass book in which shall be entered every month, the credits referred to in sub-rule (1) and also the advances, if any, taken and the repayments made, by him,

6. *Conditions and Rates of Subscription*: (1) Every subscriber shall subscribe monthly to the Fund when on duty. The payment of subscription during leave shall be optional, and no subscription shall be recovered when the subscriber is on leave without pay.

(2) The amount of subscription shall be fixed by the subscriber himself and it may be any sum not less than $3\frac{1}{2}$ per cent (i.e. a half anna in the rupee) of his emoluments and more than $8\frac{1}{2}$ per cent (i.e. one anna & four pies in the rupee). The amount shall be rounded to the nearest anna.

(3) A subscriber may alter his rate of subscription with effect from the beginning of any year, financial or otherwise, which may be followed by the employer for the purpose of his accounts, provided that he gives notice of the change to the employer before the end of the preceding year.

7. *Realisation of Subscriptions*: The subscription due from each subscriber shall be realised by monthly deductions from his emoluments.

8. *Contribution by the Employer*: The employer shall make a monthly contribution to the account of each subscriber equal to the amount subscribed by the subscriber himself, and such contribution shall be credited to the Fund not later than the fifteenth of the month in which the subscriber's subscription is deducted from his emoluments.

9. *Interest* · Interest earned on the moneys of the Fund invested under rule 13 shall be credited to the accounts of the individual subscriber pro rata.

10. *Advances from the Fund and their Repayment*: (1) A temporary advance may be granted to a subscriber from the amount standing to his credit in the Fund at the discretion of the Board, subject to the following conditions:—

(a) No advance may be granted unless the Board is satisfied that the applicant's pecuniary circumstances justify it and that the amount advanced will be expended on either or both of the following objects:—

(i) to pay expenses incurred in connection with the prolonged illness of the subscriber or any person actually dependent on him ;

(ii) to pay obligatory expenses on a scale appropriate to the subscriber's status in connection with marriages, funerals or ceremonies which by his religion it is incumbent on him to perform.

(b) An advance shall not ordinarily exceed three months' emoluments and shall not exceed,

(i) if made for the object specified in sub-clause (i) of clause (a) the amount of subscriptions and interest thereon standing to the credit of the subscriber in the Fund and

(ii) if made for any of the objects specified in sub-clause (ii) of clause (a) half such amount.

(c) A second or subsequent advance shall not be granted until at least 3/6 months have lapsed since the complete repayment of a previous advance together with interest.

(2) An advance shall be recovered from the subscriber in such number of equal monthly instalments as the Board may direct ; but such number shall not be less than 12, nor more than 24. A subscriber may at his option make repayment in a smaller number of instalments than the number directed.

(3) Recovery shall be made in the manner provided by rule 7 for the realisation of subscriptions and shall commence on the occasion, after the advance is made, on which the subscriber receives not less than 75 per cent of his normal emoluments. Recovery shall

not be made, except with the subscriber's consent while he is on leave.

(4) After the principal of the advance has been fully repaid, interest shall be paid thereon at such rate as may be prescribed by the Board from time to time

(5) Interest shall be recovered in one or two instalments in the month or months immediately following the repayment of the principal.

(6) Recoveries of advances and the interest thereon shall be credited as they are made to the account of the subscriber in the Fund.

11. *Circumstances in which accumulations are payable.* (1) If a subscriber dies or for other reasons ceases to be a subscriber, the amount standing to his credit in the Fund, including interest up to date shall become payable to him or his nominee, subject to any deduction authorised under rule 12.

(2) No claim shall be entertainable against the Fund if made more than three years after the date on which the amount due become payable.

(3) Any amount due from the Fund shall cease to bear interest after three months from the date on which the amount became payable.

(4) Payments under sub-rule (1) to the employee or his nominees in the event of his death, shall be made within one month of the date on which they fall due. In the case of the death of an employee who has no subsisting nomination it shall be competent for the Board to pay the amount due to the natural heir or heirs of the deceased employee provided the Board is satisfied as to the heirship of the claimant or claimants.

12. *Deductions:* (1) Subject to the provisions of sub-rule (2) no deductions shall be made from the amount standing to the credit of a subscriber when final payment is made to him or his nominees under rule 11.

(2) If any subscriber is dismissed from service for serious misconduct or resigns or leaves his employment at his own request otherwise than on medical grounds, or if any voluntary subscriber while remaining in his employment discontinues his subscriptions to the

Fund, the Board may direct that deductions shall be made from the amount paid into the subscriber's account by the employer under rule 8 (including interest in accordance with the following scale.)

- | | |
|---|----------------|
| (a) Subscribers of less than 3 years standing | . 100 per cent |
| (b) Subscribers of 3 but less than 6 years standing | . 50 per cent |
| (c) Subscribers of 6 but less than 9 years standing | 25 per cent. |
| (d) Subscribers of 9 or more years standing | nil. |

13 *Investment*: The moneys of the Fund not immediately required for the purposes of the Fund and held in a Bank account shall be invested by the Board in any securities for the time being authorised under the Indian Income-tax Act, 1922 and the Indian Trusts Act, 1882 and the rules made thereunder in respect of the investment of moneys of a Provident Fund recognised under the Indian Income-tax Act, 1922. Such investment shall be made in the name of the Board and may when the conditions of investment permit be made payable or transferrable to the order of any two members of the Board.

14. *Reference of disputed cases to a Referee*: (1) The decision of the Board shall be final and binding upon the subscribers and the employer in all matters relating to the Fund, and in the event of the Board being equally divided in its opinion on any dispute between the employer and a subscriber or his nominees in the event of his death, the dispute shall be submitted for decision to a referee agreed upon by the Board

(2) In the event of the Board not agreeing upon a referee, the dispute shall be referred to an authority nominated for this purpose, by a general or special order by the Provincial Government¹ and the decision of such authority will be final. The fees and expenses of a referee agreed upon by the Board or of the authority to whom the dispute is referred shall be defrayed out of the Fund.

15. *Closure of the Fund*: Before the closing of the Fund, all amounts due and all assets shall be realised and all liabilities shall be liquidated. All accumulations due to members shall be paid and the surplus, if any, shall be paid to the members of the Fund at the date of closing in proportion to the amount standing to the credit of each member.

¹ An employer intending to adopt this sub-rule will have to obtain Provincial Government's permission.

FORM OF NOMINATION

I hereby direct that the amount at my credit in the Provident Fund at the time of my death shall be distributed among the persons mentioned below in the manner shown against their names

Name and address of the nominee or nominees	Relationship of each nominee with the subscriber	Age of each nominee	Amount or share of accumula- tions
(1)	(2)	(3)	(4)

Note—Column (4) shall be filled in so as to cover the whole amount at credit.

APPENDIX XII

RECOMMENDATIONS OF NATIONAL PLANNING COMMITTEE (LABOUR)¹

PROPOSALS AND RECOMMENDATIONS

HOURS OF WORK

1 Working hours should be limited to 48 per week and 8 per day in the case of workers engaged in the following industries and undertakings :—

(1) Factories regulated by the Indian Factories Act, 1934 ; (2) Unregulated industrial undertakings recommended to be regulated ; (3) Mines ; (4) Docks ; (5) Shipping,—both maritime and inland , (6) Railways ; (7) Tramways ; (8) Bus services ; (9) Plantations ; (10) Building work in bigger towns ; (11) Shops and other commercial establishments including restaurants, eating houses, haircutting saloons ; (12) Domestic Servants.

2. Hours of work in “seasonal” factories, as defined by the Factories Act, should be limited to 48 per week and 8 per day. In the case of seasonal factories, however, some latitude as regards overtime working may be allowed.

CHILD LABOUR

3 The Minimum age of employment of children in all industrial undertakings recommended to be regulated by the Factories Act, should be raised to 15. A similar rule should be made in the case of plantations also. The minimum age of employment in industrial establishments and workshops covered by the Employment of Children Act, 1938, such as those manufacturing bidis, carpets, soap, cement, matches, etc , should also be raised to 15. The same

¹ The Labour Sub-Committee was appointed by the National Planning Committee in June, 1939 with Mr N M Joshi, M L A. (Central) as Chairman and Mr V R Kalappa, M L A, as Secretary. The Report of the Sub-Committee was presented to the National Planning Committee on the 6th May, 1940 and after discussions some Resolutions were adopted stressing the paramount importance of maintaining certain essential human standards and suggesting that in giving effect to any regulation for the improvement of living and working conditions, due regard should be paid to the interests of the consumers and the capacity of each industry to support that obligations

regulations should apply to the employment of seamen also, and all the existing exceptions to the minimum age rule for seamen should be removed.

HEALTH AND SAFETY

4. Safety regulations in factories should be more strictly enforced and amended where necessary.

5. Safety provisions of the Factories Act should be extended to non-regulated factories as recommended by the Royal Commission.

6. Legislation to ensure improvement in the sanitation and hygiene in mines should be immediately undertaken. Safety provisions of the Indian Mines Act should also be strengthened.

7. Legislation to ensure improvement in the conditions of health and hygiene on plantations should be immediately undertaken. It should provide, among other things, for bathing and washing places for the workers, adequate medical facilities and the establishment of a statutory Board of Health and Welfare for each definite planning area with the necessary funds and powers at its disposal.

8. Safety of dock workers should be ensured by improving the provisions in that behalf contained in the Indian Dock Labourers' Act, 1934.

9. Legislative provision for the safety of other classes of workers such as building workers should be made.

10. There should be special safety provisions and regulations for occupations which are specially dangerous or hazardous. These should be on the lines of the provisions in this behalf made by the British Factories Act.

11. In view of the specially complicated nature of the problems of health and safety, a special Committee should be appointed to make detailed investigations and recommendations in this respect.

CRECHES

12. Provincial Governments which are empowered by the Factories Act to make rules "requiring that in any specified factory wherein more than 50 women workers are ordinarily employed a suitable room shall be reserved for the use of children under the age of six years belonging to such women," should immediately exercise their full powers in this respect. It would be well if the Factories Act itself is amended so as to make the installation of creches com-

pulsory in all factories wherein more than ten children under the school going age are found to be dependent on the women workers.

13. The management of creches could with advantage be undertaken by local bodies like the municipality and the costs might be recovered by means of a levy on employers in proportion to the total volume of labour force employed by them irrespective of whether they employ or do not employ women workers. The employers' responsibility should be shouldered by all the employers together.

WAGES

14. Minimum Wage: First attempt should be made, by means of Minimum Wage Legislation, to raise the level of wages that are too low to maintain even a minimum standard of health and decency for the workers. A 'living wage' should be defined with as much care and precision as possible and no worker should be required to work for less than a 'living wage'.

15. Wage level in any given industry should be placed as high as possible consistently with the social claims on production other than wages.

16. The more skilled and able workers should receive higher wage rates than others. There should, therefore, be different minima for different classes of workers either in different industries or in different occupations of the same industry.

17. Administration of Minimum Wage Legislation. The Minimum Wage Legislation should be administered by the Provinces on the lines of the administration of Minimum Wage Legislation in Great Britain. In Great Britain, both time and piece workers get the advantage of such legislation. Minimum rates are fixed by the Trade Boards so as to apply universally to a trade or to any special area. The rates become legally effective only after confirmation by the Minister of Labour.

18. The procedure suggested for Canada of having a series of Wage Boards with a Dominion Wage Board at the top with powers to ratify or to reject the proposals of the Wage Boards is not suitable to India, because it will be extremely difficult to find people in India for the Central Wage Board who will fully know conditions in all the various Provinces and be in a position to discharge their duties as members of the Central Wage Board. Moreover, the task before the Central Board being very unwieldy and

cumbrous this Board is likely to act as a handicap to Provincial Boards. The Central Wage Board should, therefore, be only consultative or advisory in character.

19 Automatic Adjustment of Wages. It is yet very premature to consider the question of the automatic adjustment of wages owing to the facts that in India there is no such thing as a "Living Wage" or a "Fair Wage" enforced or even defined, and that there is need for the level of wages being raised even though the price level does not rise

Some Special Problems

(1) UNREGULATED INDUSTRIAL UNDERTAKINGS.

20. The Factories Act should be amended so as to make its provisions applicable to industrial establishments engaging five or more workers and using mechanical power. Its scope should be widened by bringing under its regulations all industrial undertakings employing ten or more persons even without mechanical power.

(ii) PLANTATIONS

21. In order to remove the practical restriction on the freedom of movement and association of the workers on plantations, legislation should be undertaken with a view to providing public roads leading to the worker's places of work and residence and sufficiently large open spaces near their houses.

22. The right of repatriation of the workers on plantations should also be extended.

(iii) SEAMEN

23. Recruitment: An Employment Bureau under Government's control should be set up in each major port, and recruitment of seamen should be made only through such a Bureau. The work of the Bureau should be carried on by persons possessing practical experience; but there should be a Joint Maritime Board to tender advice on all matters concerning the work of this Bureau.

24. The Joint Maritime Board should consist of an equal number of representatives of shipowners and seamen.

25. The Joint Board should keep a general register of all seamen in each port and classify the list according to the last date of discharge of each seamen, the man who was discharged first being

placed at the top of the list. On the appointed date of the embarkation of the crew, seamen of all categories who desire to be engaged should be asked to present themselves at the office of the Joint Board; and they should be called in the order in which their names appear on the rolls and be presented to the captain or his representative. The captain should generally accept the men thus presented, but he may have the right of rejecting any of them only if he shows any good reason which should be verified by the Joint Board. Similar right of not accepting an engagement on a particular ship should be granted to seamen. With a view to equitably distributing the available volume of employment amongst all seamen of the port, the Joint Board can introduce a rule that men should be discharged after a prescribed period of continuous service and be re-employed according to each man's turn. Under this method there will not be much scope for bribery or corruption, as every seamen in the ordinary course will have to be engaged at regular intervals. If there would be any case of either favouritism or victimisation, it would be immediately brought to the notice of seamen's representatives sitting on the Joint Board, who would make an enquiry into the matter. This procedure would serve as a proper check on corrupt practices.

26. Accommodation on Board: Provisions of the Indian Merchant Shipping Act regarding accommodation for Indian seamen on board ships should be brought into line with provisions on the subject contained in the British Act. It should, therefore, be provided that each seaman should have a space on board of not less than 120 cubic feet instead of the present 72, which gives very inadequate accommodation. Again cooking galleys whatever their situation, should be prohibited by the Indian Act, as the British Act does, from being regarded as spaces intended for the crew. Similarly there should be a provision in the Indian Act that the flooring of the ship and the lower parts of its beams should at least be seven feet apart in its part in which seamen are required to stay. Statutory provisions regarding adequate light and air during day and night need also to be made in unambiguous terms. For instance it should be provided that there should always be enough light in seamen's cabins to enable them to read a newspaper in any part of the cabin. The section of the Indian Merchant Shipping Act in this connection is very vague as it only lays down that seamen's place of accommodation on board should be "properly ventilated and properly protected from weather and sea." There is no mention of light.

Moreover, the section does not even give the authorities any rule-making powers. It is, therefore, necessary that it should be amended on the line suggested above.

27. In the matter of food for seamen specific rules regarding the quality and quantity of catables to be supplied should be framed with a view to ensuring to seamen the supply of adequate and regular meals on board ships.

28. The discrimination made between Indian and European seamen regarding the scale of compensation to be paid to them for bad or insufficient food supply should be removed, by raising the scale of compensation of Indian seamen to the level of that of the European.

(iv) WORKERS IN INLAND VESSELS

29. In the case of inland navigation the recruitment of the crew should be made through a Joint Board consisting of an equal number of representatives of workers and employers.

30. The scale of rations should be fixed by the local Government concerned and the employer should be responsible for the supply of this ration free of charge.

31. Regulations regarding decent accommodation on board ships should also be framed for the benefit of inland navigation workers.

(v) DOCK WORKERS

32. Each major port should have a register of all workers who have a genuine claim to be regarded as dock labourers. Each man on this register should be given work when his turn comes. The system of registration should be supervised and controlled by the port authority with the approval of the Provincial Governments concerned and with the help of the representatives of shipowners, stevedores and labourers.

(vi) BUILDING WORKERS

33. The proposals contained in the Convention regarding building workers passed by the International Labour Conference in 1937 prescribing rules relating to scaffolds, hoisting appliances, safety equipment and first aid etc., should be immediately put into effect.

(vii) THE PROBLEM OF DOMESTIC SERVANTS

34 In view of the complicated nature of the problems involved in the character of the domestic service in rural parts they are excluded from this section. So also is excluded the question of domestic servants in cities who serve more masters than one, because it will not be practicable to regulate their working conditions. The section deals with the question of domestic servants in bigger towns and villages who are employed for wages by their masters.

35. In India it would be desirable, while framing legislation for the protection of domestic servants, so to define the word 'domestic servant' as to include the largest number of workers engaged in household and personal services. The definition should include, besides domestic servants of the more common type, all workers who render personal and domestic service even such as cooks and servants in boarding houses, gardeners, chauffeurs, and cleaners of private motor cars, watchmen, 'bhaiyyas' and the like

36. Children under the age of 15 should not, as a rule be employed as domestic servants.

37. A domestic servant should have a 9-hour continuous rest period during night. Young persons between the ages of 15 and 18 should have an 11-hour rest period during night preferably from 8 P.M. to 7 A.M. During the day also a domestic servant should be free from work from 1 P.M. to 5 P.M.

38. A domestic servant should have at least half a day's holiday on every Sunday. He should be freed at 1 P.M. and should not be required to return to work till Monday morning. The employer should provide for the meal of the servant on Sunday evenings also.

39. Domestic workers, like others, should be enabled to enjoy a normal family life. Generally they should not be required to stay at their master's house. They should have their own places of residence from which they should go to their master's house only during periods of duty. As far as housing arrangements are concerned a complete change in the existing system is thus necessary.

40. In bigger towns the wages of a domestic servant should not be less than Rs. 20 per month with food. Benefits of minimum wage legislation should also be extended to domestic servants. Payment of wage should be made more regular, if possible, by extending the application of the Payment of Wages Act to domestic service.

41 The benefits of the Workmen's Compensation Act should be made available to domestic servants also. The definition of the term 'workman' in the Act and Schedule II of the Act should be suitably amended.

42 All the benefits of social insurance legislation should be extended to domestic workers along with other workers. Women domestic servants should be enabled to claim maternity benefit as of right. All social security measures should operate as much in the interests of domestic servants as in the interests of other workers.

(viii) SHOP ASSISTANTS AND WORKERS EMPLOYED IN
COMMERCIAL ESTABLISHMENTS

43 The working conditions of shop assistants and workers in commercial establishments should be suitably regulated and a beginning may be made by framing legislation for towns and cities with a population of 25,000 or more.

44 The definition of the word 'shop' should be sufficiently comprehensive to cover all categories of workers engaged in the distributive trade. Workers who are sometimes excluded from the benefit of Shops Acts, *e.g.* those working in residential hotels should not be so excluded.

45 The hours of work should be limited to 8 per day and 48 per week. The spread-over should, under no circumstances, be allowed to be longer than the actual working hours plus a reasonable period of time for rest during the day. The outer time limits of opening and closing the shop should be fixed. Where this is not practicable, *e.g.* in the case of cinemas and restaurants, an efficient system of time-keeping for the benefit of the employees should be insisted upon.

46 Shop assistants should have a full day's weekly holiday. It would be very well if a common closing day (*e.g.* Sunday) is fixed for all the shops. To guard against the excessive inconvenience caused by the rigidity of 'closing orders' it might be provided that the orders should be relaxed for the purpose of dealing with special circumstances or particular areas for a limited period of time.

47 No child under the age of 15 should be employed in any shop and no young person under the age of 18 should be required to work before 7 A.M. and after 8 P.M. More severe punishment should be provided for breaches of regulations regarding children and young persons.

48. Educational facilities and encouragement to organise should be given to shop assistants in an adequate measure. Other amenities such as holidays with pay, social insurance and minimum wage should also be made available to them along with industrial workers.

THE PROBLEM OF HOUSING

49. The responsibility of providing adequate housing accommodation to the industrial workers should be taken over by the State or by the Municipalities and Local Boards subsidised if necessary by the Government for this purpose.

50. Municipalities and local bodies may if necessary be required to spend a suitable proportion of their incomes on industrial housing.

51. On principle, the system of employers providing housing accommodation to their employees is not desirable.

52. In the meantime, steps should be taken immediately to improve the existing housing conditions both as regards the minimum standard of conveniences and as regards rent. Rent should be so restricted as to enable the worker to secure adequate accommodation within 10 per cent of his earnings.

53. A site for any new industry should not be chosen unless it is found suitable from the point of view of industrial housing. A careful survey of prospective industrial areas should be made with a view to ascertaining the possibility of making available to the workers adequate housing accommodation as soon as the industries are started.

HOLIDAYS WITH PAY.

54. All industrial employees should be given at least 10 working days (exclusive of public holidays) as paid holidays after 12 months* service.

55. Special consideration should be given to the case of those workers in factories who, on account of being employed on continuous processes or for other reasons, have to be deprived by exemptions of the benefits of the Factories Act relating to the weekly hours of work.

56. Details regarding the provisions of paid holidays should be worked out by a Committee of experts specially entrusted with this task.

SOCIAL INSURANCE

57 Workmen's Compensation. The present rates paid by way of compensation should be raised to the level of rates recommended by the Geneva Recommendation of 1925

58 Rules regarding payment of compensation should be modified so as not to deprive a worker of compensation for serious accidents even though the accidents may be due to his negligence

59 There should be compulsory insurance for compensation so that even smaller employers will find it easy to meet compensation claims.

60 Maternity Benefit. Maternity Benefit legislation in India should be broadly on the lines indicated in the Child-birth Convention adopted by the International Labour Organisation in 1919. The Convention lays down that in public or private industrial or commercial undertaking, a woman should not be permitted to work during the six weeks following her confinement and should have the right to leave her work on production of a medical certificate to the effect that her confinement will probably take place within six weeks. While she is thus absent from her work she should be paid benefits sufficient for the full and healthy maintenance of herself and her child. As an additional benefit she should be entitled to free attendance by a doctor or a certified midwife. When she returns to work and if she is nursing her child she should be allowed half an hour twice a day during her working hours for this purpose

61. In India a woman worker should get at least eight annas per day or her full daily wages whichever amount is bigger as maternity benefit during six weeks before and six weeks after her confinement. Maternity benefit should be paid out of a special public Fund. The extent of the liability of an employer to contribute to this Fund should be determined not by the number of women workers actually employed by him but by the total number of operatives employed whether men or women. This arrangement will mitigate to some extent the alleged evil of women as such being thrown out of employment on account of the obligation of the employer to pay maternity benefit.

62. Other forms of Social Insurance: A system of social insurance for industrial workers should be established without undue delay. The system should cover the risks caused by sickness, invalidity and involuntary unemployment and should also provide for

survivor's pensions. It should be compulsory and unified in character and should be controlled and managed by the State. It should also be on a contributory basis. The contribution of the worker should be proportionately much smaller than that of the employer and the State also should make its fair contribution.

63. The beginning of the scheme should not be delayed for want of adequate statistics but the scheme to begin with should be cautious.

64. The system of old age pensions should be established by means of a special State-controlled scheme which should be of a non-contributory character.

65. Various questions in connection with the social insurance scheme such as the character and the rates of the benefits to be paid, the conditions of payment of the benefits, the exact rates and proportion of contributions and the detailed arrangement for the management of the funds should be considered by a Committee of experts.

EDUCATION.

66. **Literary and General:** A nation-wide campaign of adult literacy and education should be started by making it obligatory on every illiterate adult to attend a literacy centre for a fixed period. The necessary finances required for launching the scheme should be provided by the State.

67. **Technical Education:** This should be provided to workers in (a) Evening Technical Schools or (b) Day Technical Schools according to their desire. Workers wishing to attend the day schools should be released by the employers for at least two half-days during a week. Or, in the alternative, part time instruction should be provided before 6 P.M. every day and employers should be under an obligation to release their workers for this purpose for not less than eight hours per week during at least two years.

TRADE UNIONS

68. Government and employers in the country must change their attitude towards the Trade Union Movement and treat it as a part of the national life. The movement as representing the working class should be given its due place in all aspects of national life. This recognition can not be given merely by a special law but has to be expressed or borne in mind on all occasions.

69 Giving proper representation to the Trade Union Movement in legislatures, Municipalities and other institutions of public importance is a method of recognising it as a part of the national life.

TRADE DISPUTES

70. For peaceful settlement of trade disputes recognition by the employers of trade unions for the purposes of collective bargaining is necessary.

71 The system of arbitration in which the decisions of the arbitrators are binding on both parties must be rejected ¹

72 Machinery for the settlement of disputes should be provided by Government in the form of a Conciliation Board and an Industrial Court.

73. A fair trial should be given to the Central Trade Disputes Act, 1929.

STATISTICS.

74. A Statistics Act should be passed in order to oblige all persons concerned to furnish the necessary statistical information to the proper authorities whenever such information is required by them.

THE ORGANISATION OF LABOUR INSPECTION.

75. The two important recommendations regarding labour inspection made by the Royal Commission on Labour were :

(1) The appointment of Women Inspectors ; and (2) The Co-ordination of inspection services. It is imperative that all the Provinces should now make it a point to appoint a sufficient number of factory inspectors with an adequate number of women inspectors. For bringing about co-ordination in inspection services, as the Royal Commission recommended, periodical Conferences of Chief Inspectors and inspectors of all other grades from all the Provinces should be arranged. Provincial Governments that have not yet appointed Commissioners of Labour should do so without delay.

76. In mines the proportion of fatal and serious accidents has been steadily increasing since 1903. In 1903 it was 1.65 per one thousand workers while in 1936 it reached the figure 5.51. This state

¹ See Mr. V. V. Giri's Note of Dissent in p 119, Report of the National Planning Committee, London, C C Vora & Co, Bombay, 1947.

of labour calls for drastic reforms both in the nature of the safety regulations and their enforcement though the Government of India have since passed legislation.

77. In order to increase the efficiency of the inspecting staff the number of inspectors should be increased and some of the inspectors should be doctors and engineers. This is all the more necessary now that some of the Provincial Governments are extending the application of the Factories Act to smaller industrial establishments. Moreover, proper training should be given to prospective inspectors.

LABOUR LEGISLATION. PROVINCIAL AND CENTRAL.

78. Generally speaking, labour legislation which substantially restricts output or throws a substantial financial burden on competitive industries or which affects industries which are in their character Central should be the sphere of the Central Legislature. Legislation which does not restrict output of production or by which production is affected very slightly or the financial burden of which on Provincial Treasuries is small or which affects sheltered industries or industries of a local character need not be Central.

79. Administration of labour legislation should be generally the duty of the Provincial Governments except in circumstances where the administration of legislation affects an industry of an essentially inter-provincial character.

80. There should be as far as possible, co-ordination between the labour legislation in different provinces. For this purpose a Tripartite Industrial Council representing the Government, the employers and labour should be formed. The Council should consider programme for Provincial and Central labour legislation. The Indian States should also be invited to send their representatives on the Council.

81. The need for uniformity and co-ordination should not, however, stand in the way of progressive labour legislation being undertaken by Provincial Governments immediately.

THE PLAN FOR LABOUR LEGISLATION

82. The period during which labour legislation suggested here should be carried out should not be longer than five years. Social Insurance schemes should be taken in hand first of all. The Statistics legislation and collection of statistics can be carried on simultaneously

with this. Next should come the reduction in hours of work. After two years, during which statistics should be collected, minimum wage legislation should be launched upon.

83. Housing and Educational reforms, being within the scope of the Provincial Governments should be started immediately and completed within five years.

WORKER'S VOICE OR CONTROL.

84. If the National Plan for developing industries is to succeed, workers engaged in industrial work must be given such conditions as will place them in a position to devote to their work all the intelligence, physical skill, energy and enthusiasm they possess, so that their work will be efficient and the output of their production both in quantity and quality will be the highest. Under the present industrial system in which those only who invest capital in the industry control it fully, two of the greatest fears of the workers are that to the extent they improve their efficiency and their production, they stand the risk of unemployment and of their wages going down. To free them from this risk and to remove their fear it will not be enough to provide social insurance and machinery to fix their wages without changing the system as regards the control of the conditions, under which the workers work. As in politics "good government is not a substitute for self-government", so in industrial system, besides providing good conditions of work, they will also require the higher satisfaction that by doing their work well they are rendering service to the community not as slaves of the system but as free men. In order both to remove their fear about the future and to give them security and also to give them the satisfaction of a higher motive, the workers will require to be given a voice or control in the conduct of the industrial system. It is too early to decide what will be the nature, form and extent of that voice or control which will depend upon the nature and form of the machinery that will be devised to settle and to carry out the Plan and also upon the Political constitution under which it will be carried out.

APPENDIX XIII

REPORT OF THE ECONOMIC PROGRAMME COMMITTEE.¹

"In the nature of things this report does not presume to be a comprehensive blue-print but only aims at giving an outline programme, the details of which will have to be filled in by the Permanent Planning Commission that has been recommended. Such a full programme will cover other fields, such as education, public health, etc., which have been merely touched upon by us.

I AIMS AND OBJECTIVES

(1) A quick and progressive rise in the standard of living of the people should be the primary consideration governing all economic activities and relevant administrative measures of the Central and Provincial Governments. The achievement of a national minimum standard in respect of all the essentials of physical and social well being within a reasonable period must be pursued as the practical goal of all schemes for economic development.

(2) A parallel aim of the nation's economic activity should be to afford opportunities for full employment of a kind which could draw out the best in every individual in the service of the community and for the highest development of his or her personality. Such a scheme of full employment should result in fuller utilisation of our manpower, specially on land and in rural industries.

(3) For the earliest realisation of this two-fold aim, an adequate and expanding volume of production is an indispensable pre-requisite. All schemes and measures of the State should be so designed as to obtain the maximum utilisation of material and man-power resources of the nation.

¹ With a view to draw up the Economic Programme for the Congress in accordance with the Election Manifesto, dated the 19th December, 1945 and A. I. C. C. Resolution, dated the 17th November, 1947, the Economic Programme Committee was appointed with Pandit Jawaharlal Nehru as Chairman. The Committee met in New Delhi on the 10th and 11th December, 1947 when four Sub-committees were formed. The Sub-committees submitted unanimous reports which were considered by the main Committee in New Delhi on the 22nd and 25th January, 1948 and this Report was mainly based on the Sub-committees Reports.

(4) To establish a just social order and to raise the standard of living of the people, it is necessary to bring about equitable distribution of the existing income and wealth and prevent the growth of disparities in this respect with the progress of industrialisation of the country. In the process of eliminating disparities, prior consideration should be given to the income-groups farthest removed from the national minimum.

A ceiling for incomes should be fixed, which should not exceed 40 times the national minimum needed for the primary needs of food, clothing, etc. The upper limit should be brought down by successive steps to 20 times the national minimum. Such a minimum should be determined from time to time in relation to the cost of living and productive efficiency of the people. A return of property should be called for periodically, along with the income return, to check violations of this provision. A census of national income should also be instituted.

(5) To secure the widest diffusion of opportunities for gainful occupation of a suitable character, and to reduce to the minimum opportunities for exploitation, the economic organisation of the country should function on a decentralised basis, as far as it is compatible with the requirement of an adequate standard of living and the country's internal and external security. Towards the same end the requirement of national and regional self-sufficiency and of a proper balance between rural and urban economy should be kept in view in laying down the line of economic development in the country.

II. AGRICULTURE.

(1) In every province and every prescribed area, minimum levels of assured production of food, cloth and building materials should be determined on the basis of a scheme of balanced cultivation.

(2) All intermediaries between the tiller and the State should be eliminated and all middlemen should be replaced by non-profit making agencies, such as co-operatives.

(3) Satisfactory means should be evolved for achieving and maintaining more equitable exchange relations between agricultural and non-agricultural products. This should be done by fixing a juster level of prices of agricultural commodities and manufactured goods and commercial and other social services, calculated to result in

enumerative prices for basic agricultural products and in the achievement of living wage levels for agricultural workers

(4) The individual peasant is generally so ill-equipped that he cannot be expected to assume complete responsibility for better farming. Implements, manure, seeds, bullocks and such other essential equipment should therefore be made available to him by a Central Agency (Provincial), not directly but through the Village Multi-purpose Co-operative Society

(5) The State should undertake direct investment in non-recurring permanent land improvements like anti-erosion, irrigation and drainage measures, the Government providing the resources and the village supplying the labour power.

(6) To raise the efficiency of our existing human resources, technical education, besides general education must be provided to all children, adolescents and even adults. The Wardha Education System with agriculture as the basic craft should be adopted.

(7) With a view immediately to raise the standard of efficiency and culture of the agricultural population, the Provincial Governments should organise and maintain schools and demonstration farms to provide refresher courses and to ensure that Kisan youths and skilled Kisans are educated and trained in the most efficient and practical modern methods of agriculture, including accounting, marketing and other business activities associated with agriculture.

(8) The State should organise pilot schemes for experimenting with co-operative farming among small holders and should set up co-operative colonies on Government unoccupied but cultivable lands, and should also directly own and run farms for purposes of experiment and demonstration.

(9) Every effort should be made to minimise the present wastage and high cost of cattle services by organising Co-operative stock breeding and cattle maintenance stations and veterinary dispensaries in as many villages as possible, thereby enabling the peasant to hire out cattle services. There should be provision of stud bulls and pedigree cattle for both draught and milk-yielding purposes.

(10) Government must organise expeditiously Agricultural and Co-operative Information Services to work in co-operation with and through the local Co-operative organisations, Village Panchayats and agriculturists' organisations and see that every village is brought in direct contact with this service

(11) Co-operative Multi-purpose Enterprises and their Unions should be organised systematically and according to a plan in all centres to cut down the costs of agricultural credit, processing and marketing of agricultural produce and the supply of manufactured goods from the towns to villages, from the factories and industrial co-operatives to the villagers.

Organisation and working of co-operative societies should primarily be the concern of the local population. District Co-operative Federations and Unions should be organised to de-bureaucratise the Co-operative movement so that the function of Government will be confined to assisting the societies in every possible way in keeping proper accounts, in supervision of their working and in auditing, and providing the necessary trained personnel.

(12) Land should be held for use and as a source of employment. The use of lands of those who are either non-cultivating landholders or otherwise unable for any period to exercise the right of cultivating them, must come to vest in the village co-operative community subject to the condition that the original lawful holder or his successor will be entitled to come back to the land for genuine cultivation. In the case of minors and the physically incapacitated, a share of the produce of the land should be given to them.

(13) The maximum size of holding should be fixed. The surplus land over such a maximum should be acquired and placed at the disposal of the village co-operatives. Small holdings should be consolidated and steps taken to prevent further fragmentation.

(14) Priority should be given by the State in its plans for the early development of river-valley projects and also for the production and distribution of cheap electricity for rural industries and agricultural purposes, and for assuring protected water supply to the people of the rural areas.

(15) Provision should be made for grain storage, rural communications, manure collection and preservation, tree planting, fuel supply and the organisation of seed-supply farms under State and Co-operative auspices to bring all land under improved seeds and varieties.

(16) Statutory village Panchayats should be organised for a village or group of villages for self-governing purposes with well-defined powers and adequate financial resources, and with supervisory jurisdiction over all other institutions in the locality.

(17) The present land revenue system should be replaced by progressive taxation of agricultural income

(18) To finance agricultural operations and development, the State should organise Agricultural Finance Corporations which should function through Co-operative societies

(19) Suitable machinery should be created for conciliation and mutual assistance between landless and land-holding peasants.

(20) Provincial Governments should take steps for the relief of indebtedness of agricultural labour

III. VILLAGE AND COTTAGE INDUSTRIES.

(1) The aim of economic planning with reference to small-scale and cottage industries shall be full employment of human, animal and natural resources with maximum productive efficiency in order to reach the national minimum standard of living, which should ensure a balanced diet, sufficient clothing, and living accommodation to every family.

(2) The Government should undertake and encourage research for the purpose of developing these industries efficiently and for better utilisation of available natural resources. A permanent Board of Research should be set up for this purpose.

(3) Arrangements should be made for demonstration of, and training in, the application of better tools and processes. For this purpose the training should follow the lines of the post-basic plan of the Wardha Education Scheme. The success of the programme of development will largely depend on the education of the worker both technical and co-operative.

(4) The small-scale and cottage industries should be promoted on non-profit lines through industrial co-operative societies that undertake to supply raw materials, guide the production, and sell the goods of the members, and if possible provide them with a common workshop where they can produce jointly. The responsibility of organising these industries on co-operative lines or otherwise must be undertaken by the State working through non-official promotional bodies, free from official control and interference, though the Government may be represented on them. The structure that is built up should be a strong federal structure, consisting of primary societies, their regional unions and associations and the apex federation. This should allow production by small units with the benefits of centra-

used organisation, and should control and guide the production by the worker, and should undertake the disposal of the goods so produced. The artisan and the worker should not be expected to take the responsibilities of procurement of raw materials and sales of goods. He should be allowed to concentrate on production. The onus of purchases, sales, arrangement for tools, workshops, guidance and supervision should fall on the industrial co-operative structure.

(5) No State-aid should be given to an individual except through his co-operative society.

(6) As far as possible the industries should be so organised that the movement of raw materials from one area to another is minimised. In case of forests, the Government should change its present revenue-based policy and aim at producing materials needed by the people and serving the general purposes of the national economy, such as increasing the rainfall, prevention of erosion and conservation of sub-soil water. Priority should be given to supply such forest produce to these industries at standard rates and the industrial co-operatives should not be expected to compete with contractors in auction sales.

(7) The workers in these industries are not in a position to collect necessary funds. The co-operative banks and other local sources might be tapped if the Government could stand guarantee against margins. Direct loans and subsidies by Government will, however, be necessary in many industries in the initial stages, specially in the case of losing industries and new industries. These loans and subsidies of the Government should be made available through the co-operative structure.

(8) The major portion of the produce of these industries should be sold through the consumers' societies and multi-purpose agriculturists' societies with whom the industrial societies and their associations should maintain a close contact. Sales depots run by the industrial societies and their associations may also be encouraged, specially in towns.

(9) The Government and public bodies should give preference to goods produced by small-scale and cottage industries for use by their departments. Patronage by large-scale industry of such goods should also be encouraged. There is a large possibility of these units working as feeders to large-scale industries. The industrial co-operative societies should, however, not be expected either by the Government, public bodies or large industries to submit tenders and

compete with the merchant through the existing store-purchase channels. A system of placing orders at standard rates with the industrial co-operative societies should be introduced.

(10) The organisation and marketing of products of these industries should be so arranged as to reduce the strain on the transport system to a minimum. The transport policy of the Government will, however, have to be substantially altered so as to give high priority and concessional rates for the transport of raw materials and other accessories required by these industries and the articles produced by them.

(11) The raw materials and accessories required by cottage and village industries and their products may be exempted from payment of octroi duties, terminal taxes, sales tax and other such charges.

(12) The Government, at its own cost, should organise propaganda and advertisement through the Press, the radio, the platform and by means of museums, exhibitions, demonstrations, posters, magic lantern shows, etc.

(13) It will be necessary to create the right type of leadership to guide the development of these industries. A cadre of organisers, technicians, secretaries, etc. devoted to the principles of co-operation, will have to be established, whose salaries should be in consonance with the prevailing standard of payment in other industries and whose salaries and promotion should not be made to depend upon the pleasure of the elected office-bearers but should be on the lines of similar cadres in public bodies.

(14) In any scheme of formal or informal control over distribution of raw materials in short supply to industries, such as steel, coal, caustic soda and other chemicals, adequate and definite provision should be made to meet the needs of village and cottage industries.

(15) The special interests of village and cottage industries should be borne in mind by the Tariff Board while framing its recommendations regarding industries referred to it.

IV. INDUSTRY.

(1) Industries producing articles of food and clothing and other consumer goods should constitute the decentralised sector of Indian economy and should, as far as possible, be developed and run on a co-operative basis. Such industries should for the most part be run on cottage or small-scale basis. Larger units are inevitable in the

case of heavy industries, e.g., manufacture of machinery and other producer goods. The choice of size will be determined by the net balance of economic and social advantage, preference being for smaller as against the larger units.

(2) The respective spheres of large-scale, small-scale and cottage industries should be demarcated as clearly as possible to avoid economic insecurity and destructive competition. Measures should be taken to co-ordinate the various types of industries and link them up in a supplementary-complimentary relationship. Large scale industry should make the fullest use of cottage industries for processes which can be handled on handcraft basis without serious loss of efficiency. In the conditions prevalent in our country emphasis will be on providing opportunities for employment of our unutilised or partially utilised reservoir of labour, and minimising the use of costly capital goods. Large-scale industry should also be utilised to improve the economic basis and the operative efficiency of small-scale and cottage industries. Certain lines of manufacture should be reserved for cottage industries. In order to competition between production so reserved for cottage industries and large scale production the State may bring under its control such competing large-scale industry. Where a cottage industry is allowed to operate in the same field as large-scale mechanised industry its output should be protected from the competition of the latter by subsidies or some method of price equalisation. This applies specially to cotton textile industry. In this and similar cases, further expansion of large-scale machine industry should be restricted except where this is considered necessary. In such cases it should be undertaken under State auspices.

(3) Regional self-sufficiency should be the aim with regard to all types of industries. Development on these lines should help to provide full and varied employment of man-power and raw materials in each unit and to reduce the pressure on the transport system. Location of industry should be so planned as to make a district of average size, having roughly a population of 10 lakhs, as nearly self-sufficient as possible in respect of consumer goods which supply the daily needs of the people. In this respect particular attention should be paid to essentials like food and cloth.

(4) The position regarding raw materials and other factors may entail the location or concentration of certain industries in a few areas. It would not be desirable to erect physical barriers in respect of movement of goods in the interests of regional development. Fiscal

and other measures may, however, be adopted to foster suitable industries in different regions. Such measures will be particularly appropriate for the industrial development of backward areas to assure their social, economic and educational progress.

(5) Control of investment and licensing of new undertakings should be resorted to for the purpose of effective co-ordination and harmonious development of different types of industry.

(6) New undertakings in defence, key and public utility industries should be started under public ownership. New undertakings which are in the nature of monopolies or in view of their scale of operations serve the country as a whole or cover more than one Province should be run on the basis of public ownership. This is subject to the limit of the State's resources and capacity at the time and the need of the nation to enlarge production and speed up development.

(7) In respect of existing undertakings the process of transfer from private to public ownership should commence after a period of five years. In special cases, a competent body may, after proper examination, decide on an earlier transfer. The first five years should be treated as a period for preparation, during which arrangements should be made to take over and run these undertakings efficiently.

(8) The progress of transition to public ownership should be controlled so as to avoid the dislocation of the economic life in the country, fall in production, uneconomic acquisition of inflated assets, and the diversion of valuable resources from more urgent to less urgent uses.

(9) Acquisition should take place when the excessive margins of profits which prevail in the existing abnormal conditions have declined to a reasonable level, in consequence of the fall in price or under pressure of appropriate legislation or administrative measures.

(10) To secure efficient development and conduct of public-owned industries, suitable administrative agencies should be set up. Particular attention should be given to the following matters: (i) creation of an economic Civil Service which will furnish industry with executives of different grades; (ii) training of the requisite industrial cadre; (iii) technical training and general education of the workers; (iv) organisation of research and information; (v) control of investment and of scarce or strategic resources; and (vi) intensive and detailed economic surveys.

(11) State departmental control should be confined to questions of policy. The system of Statutory Corporations for the management of Industry, Trade and Transport should be developed with necessary adaptations to suit Indian conditions.

(12) In private industry the existing system of managing agency should be abolished as early as possible. Private industry should be subject to all such regulations and controls as are needed for the realisation of the objective of national policy in the matter of industrial development.

(13) Employed capital, i.e., capital plus reserves, should be adopted as the basis for the computation of the return on capital. Steps should be taken to prevent excessive distribution of the profits earned by an industry or establishment or undertaking. Distributed profits should be taxed at a higher rate than undistributed profits. A five per cent dividend in terms of employed capital will be the maximum limit for distribution of profits. The profits to be transferred to the reserve funds should be limited to such sums as in the opinion of a competent authority may be effectively utilised for productive purposes by the industry or industries concerned. Out of the profits earned in any year, the surplus, after setting apart 3% on employed capital as dividend and another portion to be earmarked by Government for schemes of social welfare industrial improvement, should be shared between the workers and the share-holders in proportion to be fixed by Government. The employees' share will not exceed in any year a third of the basic wage or the national minimum which ever is higher.

(14) All resources available for investment should be subject to the control and direction of the State. The State should set up Finance Corporation for financing industries. Banking and Insurance should be nationalised.

V. INDUSTRIAL RELATIONS

Stable and friendly relations should be established between labour and capital through increasing association of labour with management in industry and through profit-sharing. The establishment of Works Committees in such undertaking to settle differences in the day-to-day administration, and of Regional Labour Boards in each industry to determine wages and conditions of labour, should be on the basis of adequate representation being given to duly

ected representatives of labour. In the interest of uninterrupted production, all disputes between employers and workmen should be settled through the machinery of conciliation, arbitration and adjudication. The workers should be guaranteed a minimum wage, proper housing and protection against the economic consequences of old age, sickness and unemployment.

VI. CO-OPERATION

(1) Promotion of co-operative distribution is necessary to secure a balanced progressive economy in which regulated distribution will form an integral part of a comprehensive economic plan for the country. If wages are to be controlled and consequently the prices of agricultural products and manufactured articles, the distribution of consumer goods should be controlled by the encouragement of co-operative effort.

(2) A multi-purpose co-operative society with branches for agricultural producers, consumers and small industries should be set up to develop an integrated economy for the village.

By bringing together producers' and consumers' organisations the co-operative method can avoid to a large extent the use of money. It also minimises transport.

(3) The usual line of action should be to promote, encourage and, where necessary assist co-operative consumers' societies to control a large and growing volume of the retail trade in the necessities of life of the humbler section of the population. Organisations may be for a locality or for groups of wage earners and, where possible, for salary earners engaged in separate establishment owned by private concerns or the State itself.

(4) The State should grant special facilities for transport, storage, etc., and make commercial intelligence freely available to co-operative societies.

(5) Where producers' co-operatives are found, the State should use its good offices to see to it that they deal direct with consumers' co-operatives.

VII. CONCLUSIONS

(1) To implement the programme outlined above, a permanent Central Planning Commission should be appointed to advise and

assist the Congress Governments in the practical steps that should be taken.

(2) Such a Planning Commission will also review the present tax-structure and amend it to fit into the economic policy indicated above, making it possible for the government to implement this programme through its scheme of taxation.

(3) The complexion of the country's foreign trade should be carefully scrutinised to enable the country to build up its economic structure on a sound basis so as to make it possible for the nation to provide its primary needs and thus buttress its independent position.

(4) In the development of the country the place of foreign capital should be carefully examined so as to ensure that the economic controls remain with the nationals of the country."

APPENDIX XIV

RESOLUTION ON INDUSTRIAL POLICY¹

The Government of India have given careful thought to the economic problems facing the country. The nation has now set itself to establish a social order where justice and equality of opportunity shall be secured to all the people. The immediate objective is to provide educational facilities and health services on a much wider scale, and to promote a rapid rise in the standard of living of the people by exploiting the latent resources of the country, increasing production and offering opportunities to all for employment in the service of the community. For this purpose, careful planning and integrated effort over the whole field of national activity are necessary; and the Government of India propose to establish a National Planning Commission to formulate programmes of development and to secure their execution. The present statement, however, confines itself to Government's policy in the industrial field.

2. Any improvement in the economic conditions of the country postulates an increase in national wealth: a mere redistribution of existing wealth would make no essential difference to the people and would merely mean the distribution of poverty. A dynamic national policy must, therefore, be directed to a continuous increase in production by all possible means, side by side with measures to secure its equitable distribution. In the present state of the nation's economy, when the mass of the people are below the subsistence level, the emphasis should be on the expansion of production; both agricultural and industrial; and in particular on the production of capital equipment, of goods satisfying the basic needs of the people; and of commodities the export of which will increase earnings of foreign exchange.

3. The problem of State participation in Industry and the conditions in which private enterprise should be allowed to operate must be judged in this context. There can be no doubt that the State

¹ This Resolution on Industrial Policy of the Government of India was presented in the Dominion Parliament by Dr. S P Mukherjee, Industry and Supply Minister on the 6th April, 1948 and was published under Ministry of Industry and Supply Notification No 1(3)—44(13) dated the 6th April, 1948, in the Gazette of India Extraordinary, dated 6th April, 1948

must play a progressively active role in the development of industries, but ability to achieve the main objectives should determine the immediate extent of State responsibility and the limits to private enterprise. Under present conditions, the mechanism and the resources of the State may not permit it to function forthwith in Industry as widely as may be desirable. The Government of India are taking steps to remedy the situation; in particular, they are considering steps to create a body of men trained in business methods and management. They feel, however, that for some time to come, the State could contribute more quickly to the increase of national wealth by expanding its present activities wherever it is already operating and by concentrating on new units of production in other fields, rather than on acquiring and running existing units. Meanwhile, private enterprise, properly directed and regulated, has a valuable role to play.

4. On these considerations the Government have decided that the manufacture of arms and ammunition, the production and control of atomic energy, and the ownership and management of railway transport should be the exclusive monopoly of the Central Government*. Further, in any emergency, the Government would always have the power to take over any industry vital for national defence. In the case of the following industries, the State—which, in this context, includes Central, Provincial and State Governments and other Public Authorities like Municipal Corporations—will be exclusively responsible for the establishment of new undertakings, except where, in the national interest, the State itself finds it necessary to secure the co-operation of private enterprise subject to such control and regulation as the Central Government control and regulation as the Central Government may prescribe:

(1) Coal (the Indian Coalfields Committee's proposals will be generally followed), (2) Iron and Steel, (3) Aircraft Manufacture, (4) Shipbuilding, (5) Manufacture of telephone, telegraph and wireless apparatus, excluding radio receiving sets, (6) Mineral Oils.

While the inherent right of the State to acquire any existing industrial undertaking will always remain, and will be exercised whenever the public interest requires it, Government have decided to let existing undertakings in these fields develop for a period of ten years, during which they will be allowed all facilities for efficient working and reasonable expansion. At the end of this period, the whole matter will be reviewed and a decision taken in the light

of circumstances obtaining at the time. If it is decided that the State should acquire any unit, the fundamental rights guaranteed by the Constitution will be observed and compensation will be awarded on a fair and equitable basis.

Management of State enterprise will, as a rule, be through the medium of public corporations under the statutory control of the Central Government, who will assume such powers as may be necessary to ensure this.

5. The Government of India have recently promulgated a measure for the control by the State of the generation and distribution of electric power. This industry will continue to be regulated in terms of this measure.

6. The rest of the industrial field will normally be open to private enterprise, individual as well as co-operative. The State will also progressively participate in this field ; nor will it hesitate to intervene whenever the progress of an industry under private enterprise is unsatisfactory. The Central Government have already embarked on enterprises like large river-valley developments, which are multi-purpose projects of great magnitude, involving extensive generation of hydro-electric power and irrigation on a vast scale, and are calculated in a comparatively short time to change the entire face of large areas in this country. Projects like the Damodar Valley Scheme, the Kosi Reservoir, the Hirakud Dam, etc., are in a class by themselves and can stand comparison with any of the major schemes in America or elsewhere. The Central Government have also undertaken the production of fertilizer on a very large scale, and have in view other enterprises like the manufacture of essential drugs, and of synthetic oil from coal ; many Provincial and State Governments are also proceeding on similar lines.

7. There are certain basic industries of importance, apart from those mentioned in paragraph 4, the planning and regulation of which by the Central Government is necessary in the national interest. The following industries whose location must be governed by economic factors of all-India import, or which require considerable investment or a high degree of technical skill, will be the subject of Central regulation and control:—

(1) Salt, (2) Automobiles and tractors, (3) Prime Movers, (4) Electric Engineering, (5) Other heavy machinery, (6) Machine tools, (7) Heavy chemicals, fertilizers and pharmaceuticals and drugs, (8) Electro-chemical industries, (9) Non-ferrous metals, (10) Rubber

manufactures (11) Power and industrial alcohol, (12) Cotton and woollen textiles, (13) Cement, (14) Sugar, (15) Paper and newsprint, (16) Air and Sea Transport, (17) Minerals, (18) Industries related to defence.

The above list cannot obviously be of an exhaustive nature. The Government of India, while retaining the ultimate direction over this field of industry, will consult the Government of the Provinces and States at all stages and fully associate them in the formulation and execution of plans. Besides these Governments, representatives of Industry and Labour will also be associated with the Central Government in the Industrial Advisory Council and other bodies which they propose to establish, as recommended by the Industries Conference.

8 Cottage and small-scale industries have a very important role in the national economy, offering as they do scope for individual, village or co-operative enterprise, and means for the rehabilitation of displaced persons. These industries are particularly suited for the better utilisation of local resources and for the achievement of local self-sufficiency in respect of certain types of essential consumer goods like food, cloth and agricultural implements. The healthy expansion of cottage and small-scale industries depends upon a number of factors like the provision of raw materials, cheap power, technical advice, organised marketing of their produce, and, where necessary, safeguards against intensive competition by large-scale manufacture, as well as on the education of the worker in the use of the best available technique. Most of these fall in the Provincial sphere and are receiving the attention of the Governments of the Provinces and the States. The Resolution of the Industries Conference has requested the Central Government to investigate how far and in what manner these industries can be co-ordinated and integrated with large-scale industries. The Government of India accept this recommendation. It will be examined, for example, how the textile mill industry can be made complementary to, rather than competitive with the handloom industry, which is the country's largest and best organised cottage industry. In certain other lines of production, like agricultural implements, textile accessories, and parts of machine tools, it should be possible to produce components on a cottage-industry scale and assemble these into their final product at a factory. It will also be investigated how far industries at present highly centralised could be decentralised with advantage.

The Resolution of the Industries Conference has recommended that Government should establish a Cottage Industries Board for the fostering of small-scale industries. The Government of India accept this recommendation and propose to create suitable machinery to implement it. A Cottage and Small-scale Industries Directorate will also be set up within the Directorate General of Industries and Supplies.

One of the main objectives will be to give a distinctly co-operative bias to this field of industry. During and before the last war, even a predominantly agricultural country like China showed what could be done in this respect, and her mobile industrial co-operative units were of outstanding assistance in her struggle against Japan. The present international situation is likely to lessen to a marked degree our chances of getting capital goods for large-scale industry, and the leeway must be made up by having recourse to small-size industrial co-operatives throughout the country.

9. The Government, however, recognise that their objective, *viz*, securing the maximum increase in production, will not be realized merely by prescribing the respective spheres of the State and of private enterprise in Industry: it is equally essential to ensure the fullest co-operation between labour and management and the maintenance of stable and friendly relations between them. A Resolution on this subject was unanimously passed by the Industries Conference which was held in December last. Amongst other things, the Resolution states:

“The system of remuneration to capital as well as labour must be so devised that, while in the interests of the consumers and the primary producers, excessive profits should be prevented by suitable methods of taxation and otherwise, both will share the product of their common effort, after making provision for payment of fair wages to labour, a fair return on capital employed in the industry and reasonable reserves for the maintenance and expansion of the undertaking.”

Government accept this Resolution. They also consider that labour's share of the profits should be on a sliding scale normally varying with production. They propose, in addition to the over-all regulation of industry by the State, to establish machinery for advising on fair wages, fair remuneration for capital, and conditions of labour. They will also take steps to associate labour in all matters concerning industrial production.

The machinery which Government propose to set up will function at different levels, central, regional and unit. At the Centre, there will be a Central Advisory Council, which will cover the entire field of industry, and will have under it Committees for each major industry. These Committees may be split up into sub-committees dealing with specific questions relating to the industry e.g., production, industrial relations, wage fixation, and distribution of profits. The regional machinery under the Provincial Governments will be Provincial Advisory Boards which, like the Central Advisory Council, will cover the entire field of industry within the province, they will have under them Provincial Committees for each major industry. The Provincial Committees may also be split up into various sub-committees dealing with specific questions relating to production, wage fixation and industrial relations. Below the Provincial Committees will come the Works Committees and the Production Committees attached to each major industrial establishment.

The Works Committees and the Production Committees will be bi-partite in character, consisting of representatives of employers and workers only, in equal numbers. All other Committees will be tri-partite, with representatives of Government, employers and workers.

Government hope that the machinery proposed will substantially reduce the volume of industrial disputes. In the case of unresolved conflicts, Government trust that management and labour will, in their own interests and in the larger interests of the country, agree to settle them through recognised channels of conciliation and arbitration, which will be provided by Government. The Industrial Relations Machinery, both at the Centre and in the Provinces, is being strengthened, and permanent Industrial Tribunals are being established for dealing with major disputes.

The Government of India are also taking special steps to improve industrial housing as quickly as possible. A scheme for the construction of one million workers' houses in ten years is under contemplation, and a Housing Board is being constituted for this purpose. The cost will be shared in suitable proportions between Government, employers and labour, the share of labour being recovered in the form of a reasonable rent.

In order to ensure quick decisions on the various matters arising out of the Industrial Truce resolution, Government are appointing a special officer.

10. The Government of India agree with the view of the Industries Conference that, while it should be recognised that participation of foreign capital and enterprise, particularly as regards industrial technique and knowledge, will be of value to the rapid industrialisation of the country, it is necessary that the conditions under which they may participate in Indian industry should be carefully regulated in the national interest. Suitable legislation will be introduced for this purpose. Such legislation will provide for the scrutiny and approval by the Central Government of every individual case of participation of foreign capital and management in industry. It will provide that, as a rule, the major interest in ownership, and effective control, should always be in Indian hands; but power will be taken to deal with exceptional cases in a manner calculated to serve the national interest. In all cases, however, the training of suitable Indian personnel for the purpose of eventually replacing foreign experts will be insisted upon.

11. The Government of India are fully alive to their direct responsibility for the development of those industries which they have found necessary to reserve exclusively for State enterprise. They are equally ready to extend their assistance to private or co-operative enterprise in the rest of the industrial field, and in particular, by removing transport difficulties and by facilitating the import of essential raw materials to the maximum possible extent. The tariff policy of Government will be designed to prevent unfair foreign competition and to promote the utilisation of India's resources without imposing unjustifiable burdens on the consumer. The system of taxation will be reviewed and readjusted where necessary, to encourage saving and productive investment and to prevent undue concentration of wealth in a small section of the population.

12. The Government of India hope that this elucidation of their intentions on fundamental aspects of industrial policy will remove all misapprehensions, and they are confident that a joint and intensive effort will now be made by labour, capital and the general public, which will pave the way for the rapid industrialisation of the country "

APPENDIX XV

REPORT OF THE COMMITTEE ON PROFIT SHARING¹

"All discussions on profit-sharing, in the last analysis, must be viewed from three important angles, *viz.*, profit-sharing as an incentive to production, profit-sharing as a method of securing industrial peace and profit-sharing as a step in the participation of labour in management. The last consideration has largely affected the attitude of three labour organisations. But we consider that we are precluded from applying this criterion as it raises political and economic issues outside our terms of reference. On the second point, we think that giving labour a share in the profits of industry, apart from wages, would create psychological conditions favourable to the restoration and maintenance of industrial peace. This in turn will be an important indirect means of facilitating increased production. On the first point, our view is that by distributing the share of labour—the total share itself being arbitrarily determined—among individuals in proportion to their total earnings in a preceding period, a measure of individual incentive to labour for increased production would be provided. While we would repeat that it is not possible to devise a method which would directly link labour's share of profit with production, we consider that the indirect effects on production would be sufficiently tangible to make an experiment in profit-sharing well worth while.

We understand that profit-sharing by statute has been introduced in Venezuela, Mexico, Palestine and New Zealand. Apart from the fact that conditions in these countries are quite dissimilar, it is too early to benefit by their experience. Schemes of profit-sharing operated by individual concerns on a voluntary basis are of course well known. These, however, have mostly been designed by em-

¹ In pursuance of the Resolution on Industrial Policy, the Central Government appointed Committee on Profit-sharing to advise the Government on the principles to be followed for the determination of (a) fair wages to labour, (b) fair return to capital employed in the industry, (c) reasonable reserves for the maintenance and expansion of the undertaking and (d) labour's share of the surplus profits, calculated on a sliding scale normally varying with production after provision is made for (b) and (c). The above is the Majority Report; Separate Notes of Dissem. are made by Prof. R. K. Mukherjee and Messrs. Asoke Mehta, Khandubhai K. Desai, V. B. Karnik and A. D. Shroff.

employers to attract the loyalty of labour and to ensure greater continuity in the labour force employed by them. Such schemes are fundamentally different in character from any scheme to be applied compulsorily over a whole industry or region. An experiment in profit-sharing on a wide scale would, therefore, be definitely undertaking a voyage on chartered seas. We, therefore, consider that the scheme which we propose in this report should be tried out in the first instance for a period of five years and that it should apply only to the following well-established industries —

- (a) Cotton textiles.
- (b) Jute.
- (c) Steel (main producers).
- (d) Cement.
- (e) Manufacture of tyres.
- (f) Manufacture of cigarettes.

Future policy can only be developed in the light of experience gained during this period. If the initial experience is not unsatisfactory, we would further recommend that Government should consider extension of the scheme to other suitable industries.

The main reason why we have recommended an experiment in profit-sharing is that it would promote industrial peace. We, therefore, consider it important to provide that the benefits of profit-sharing in any year should be withheld, wholly or in part, from workers or sections of workers who, during that year, participate in a strike declared illegal by competent authority. Similarly, if there is an illegal lockout, "surplus profits" should be computed for the purpose of profit-sharing as if there had been no such lockout.

We now proceed to consider the various specific points on which decisions are required in order to formulate an experimental profit-sharing scheme in the industries which we have selected

Capital employed.—We have attempted to deal with this problem in the light of the Government Resolution on Industrial Policy, which states that provision should be made for a fair return on "capital employed in the industry". We have considered five formulae :

(1) Capital employed as computed for assessing excess profits-tax. Broadly speaking, this is the sum of the depreciated value of block, the value of stores and stock-in-trade, and borrowed funds excluding that part which is invested outside the business.

(2) Present value of plant and fixed assets *plus* present value of stock-in-trade and stores *plus* that amount of cash in hand and borrowings which is necessary for the conduct of the undertaking.

(3) Market value of shares.

(4) Paid-up capital *plus* half the reserves. It has been suggested that reserves are the result of common effort of labour and capital and, for that reason, the whole of it should not be treated as belonging to capital.

(5) Paid-up capital *plus* reserves. It is suggested that on the whole this represents the capital actually employed in running the industry.

The Committee considers that any formula for determining "capital employed in the industry" should satisfy the following criteria :—

(a) It should represent the actual capital employed in the business, i.e., the sum by the employment of which profits are earned.

(b) That it should be comprehensible to all and easily calculable. This criterion is very important because the application of a complicated formula, particularly one which involves individual judgment of certain factors will itself become a fertile source of industrial disputes, the avoidance of which is the main object of the scheme of profit-sharing.

Formulae (1) and (2) satisfy the first criterion in a large measure. The excess profits-tax formula has the further advantage that it has actually been applied for several years and is, therefore, known to many. Formula (2) is scientifically more satisfactory in that it attempts to assess the real value of the resources actually employed, or necessary to be employed, in the undertaking. Formula (3) attempts to go close to present reality by taking note of the actual capital contributed by a *bona fide* investor. It assumes that, by and large, share values represent the considered judgment of the investors, on a complex of issues such as the actual (and prospective) value of the assets, the past and prospective earning capacity of the undertaking, etc. The Committee considers that all these three formulae completely fail to satisfy the second criterion. Their application will involve not only difficult and prolonged calculations but also many acts of judgment on the part of those who calculate. The present value of plant and fixed assets, the value of stock-in-trade and stores,

etc , are difficult to assess. To determine how much liquid funds an undertaking should have for its proper conduct is even more difficult. The market value of shares is subject to constant and, in many cases, wide fluctuations. Apart from this, the shares of many concerns are not quoted in the market at all. For these reasons, we consider that the first three formulae must be rejected. Formulae (4) and (5) completely satisfy the second criterion, *viz* , certainty and ease of calculation, but formula (4), *viz.*, capital *plus* half the reserves, fails to satisfy the first criterion. We, as a Committee, wish to avoid all ideological considerations and, therefore, do not propose to discuss the validity or otherwise of the view that reserves should not wholly belong to capital. Nor is it necessary to do so, because the terms of reference of the Committee are to define what *is* capital employed in the industry. The only question, therefore, is whether the whole of the reserves can be regarded as being employed in the business. We are aware that part of the reserves of a concern might at any time be invested in Government securities or otherwise and, to that extent, strictly speaking, that part is not necessarily employed in the business at that time. But the fact that these are held for future use in the business cannot be ignored, nor can the fact that in many concerns much of what appears in the balance-sheets as reserve has already been converted into tangible assets. It can also be shown that in many cases much more than capital and reserves is, in fact, employed in the industry. Considering all these factors, we are of the opinion that paid-up capital *plus* reserves (including all future allocations of reserves) which are held for purposes of the business, is the nearest practicable approximation to capital employed in industry, and that this definition should be adopted. Reserves in this context will exclude depreciation reserves, and all include only those reserves built out of profits on which taxes have been paid.

Depreciation.—We consider that depreciation should be the first charge on gross profits. Many of us are of the opinion that the rates of depreciation allowed for income-tax purposes are insufficient, and that revised rates, more in conformity with what is required under present conditions, should be adopted. We, therefore, recommend that the Government should give separate consideration to this matter. In the meantime, we think that, for purposes of computing surplus profits, depreciation should be allowed as for income-tax purposes, and that allocation of this amount to a depreciation fund should be made compulsory.

Reserves.—We consider that reserves should be the first charge on net profits, *viz*, gross profits *minus* depreciation, managing agency commission and taxation. The purpose of the reserves is to provide for repairs and maintenance, emergencies, rehabilitation and modernisation of plant and equipment, and reasonable expansion. Putting back profits into the industry is one of the most useful forms of capital investment and this should be encouraged. While we think that a figure of 20 per cent for reserves should be generally aimed at we consider that, as a first charge, 10 per cent, of net profits should be compulsorily set aside for reserves; we would leave it to the good sense of the management to allocate the balance or more out of their own share of surplus profits. We feel that in many cases, particularly young concerns, 10 per cent. for reserves may not be adequate, but as we have recommended application of the scheme only to established industries, we do not think it necessary to provide for a higher rate of compulsory allocation.

Fair Return on Capital Employed.—This is an exceedingly important and controversial subject which we have discussed carefully and at considerable length. It has been urged by some that a fair return on capital employed in established industries need be only slightly higher than the yield on Government securities. Others have urged with great force that unless return on capital employed is attractive, the inducement to invest will be very seriously affected, and industrial development gravely jeopardised. Due to various reasons, among which the uncertainty about the policy of Government is regarded by many as the most important, capital is now passing through a phase of extreme shyness. During the war, and for a couple of years thereafter, investors readily responded to new ventures in industry and commerce. Indeed, at one time even comparatively unsound propositions elicited more support from the investing public than they deserved on merits. The picture has completely changed today. New enterprises, however sound and promising, find it extremely difficult to attract capital. A number of concerns in which various Provincial Governments are participating extensively have failed to interest investors. Even Central Government loans are becoming less attractive to the public. We do not wish to enter into the controversy which is now going on in the Press regarding the reasons for this state of affairs. But we feel that due note should be taken of the facts of the situation. In this context, any decision which Government might take on the question of what is a fair

return to any group of industries, is likely to be regarded by the public as an indication of Government's view on the general question of a fair rate of return. Viewing the question carefully and dispassionately, we have come to the conclusion that a fair return on capital employed in the established industries to which we have recommended the application of a scheme of profit-sharing as an experimental measure, should be that minimum return which will encourage further investment. We consider, taking all factors into account, that six per cent. on paid-up capital *plus* all reserves held for the purpose of the business, would be a fair rate under present circumstances. After an examination of the extent of reserves in undertakings in the industries we have selected, we believe that six per cent. on capital employed, as we have defined the term, augmented by 50 per cent. of the surplus profit, would enable the concerns, generally speaking, to declare a reasonable dividend.

If in any year, profits are not enough to provide this rate of return, the deficiency should be made up in the succeeding years, cumulatively.

What should be Labour's share in surplus profits—net profits minus 10 per cent. for reserves minus 6 per cent. on capital employed?—We have already stated that it is not possible to relate labour's share to changes in production, and that labour's share must be determined in an arbitrary manner. Having due regard to the conditions prevailing in the industries selected for an experiment in profit-sharing, we have come to the conclusion that labour's share should be 50 per cent. of the surplus profits of the undertakings. The individual worker's share of profit, we consider, should be in proportion to his total earnings during the preceding twelve months, *minus* dearness allowance and any other bonuses received by him. This should, of course, be in substitution of any other form of profit-sharing bonus that is being paid now.

If an individual worker's share exceeds 25 per cent. of his basic wages, we consider that cash payment should be limited to 25 per cent. of his basic wages and the excess held on his account either in his provident fund or otherwise.

How this bonus should be treated for income-tax purposes is a matter which should receive the consideration of Government.

How should Labour's share be distributed—whether by each undertaking or by each industry or by industry as a whole in each region or for all industrial undertakings in the country or by

a combination of all these?—Profit-sharing means sharing by workers in an undertaking of profits of that undertaking. Logically, the term can have no other meaning. *Ex hypothesi*, therefore, profit-sharing can only be unitwise. Only then can the fundamental objective of profit-sharing, *viz*, that the worker should have a direct interest in the fortunes of the concern in which he works, be attained. This will, however, inevitably mean no share for labour in units which do not make profits. It will also involve differences in remuneration to labour in different units. The efficient worker who has the misfortune to be employed in an undertaking which makes no profit must remain content with his ordinary wages; while an inefficient worker who has the good fortune to work in a profit-making concern will, nevertheless, share in the prosperity of that concern. We have found that labour as a whole is not prepared to accept these implications of profit-sharing. Trade unions are usually organised on an industrywise basis, and profit-sharing unitwise will cut across that structure. The fear has been expressed whether this may not lead to industrial unrest. It has been suggested that these difficulties can be removed if profit-sharing is on an industry-*cum*-locality basis. But employers are fundamentally opposed to such pooling of profits, which will mean subsidising of inefficient concerns by the more efficient units in an industry. Such a system will not be profit sharing, and will be nothing more than a form of special levy on selected industries for the benefit of certain sections of labour. In view of these difficulties, we recommend a scheme where profit sharing should normally be unitwise, but in certain selected cases would be on an industry-*cum*-locality basis. We consider that, to begin with, profit-sharing on an industry-*cum*-locality basis should be tried out in the textile industry in Bombay, Ahmedabad and Sholapur. The extension of the scheme to the textile industry in other localities can be considered later by Government. In these cases, the surplus profits of the units will be pooled for the purpose of ascertaining what should be the profit-sharing bonus payable to labour in the industry in that locality. This bonus shall be payable, as a minimum, by every unit to its labour, irrespective of its profits. But in those units where half the surplus profits (*i.e.*, the amount due to labour in that unit) exceeds the sum required to pay the minimum bonus referred to in the previous sentence, such excess shall also be paid to the workers of that unit. In all cases, however, individual cash disbursement will be limited to 25 per cent. of a

worker's basic wage, and any excess will be kept in his account, provident fund or otherwise. The net effect will be that labour employed in every unit in the locality will get a minimum share calculated on the basis of the total of half the surplus profits of all units in the locality, which make surplus profits. The Committee recognises that this proposal amounts to a fundamental departure from the principle of profit-sharing to the extent it involves the payment of a minimum sum by units who have either incurred a loss or made a profit less than the average profit of the industry. Except in the case of such units, however, it would be a scheme of profit-sharing as ordinarily understood. The proposal moreover meets one of the employers' fundamental objections to profit-sharing on locality-wise basis, inasmuch as it does not involve efficient units subsidising workers of inefficient units.

How should Government undertakings be treated for purposes of Profit-sharing?—The answer to this question is only of academic interest, as there are no Government undertakings in the industries we have recommended for an experiment in profit-sharing. On the general question, we think that those business undertakings of Government, which aim at making a profit, and which will ordinarily be organised in the form of corporations, would automatically come under any law which governs private undertakings of a similar nature.

Machinery.—Throughout our report, we have laid great stress on the need to devise a system which is easy to understand and to operate. We believe that the principles we have suggested satisfy both these criteria. Once Government lays down by law how surplus profits should be calculated and how they should be distributed among individual workers, it should become the statutory responsibility of the management to carry out the directions given by law. We think that the responsibility for ascertaining surplus profits and certifying that they have been disbursed according to law, should be laid squarely on the duly appointed auditors of the concerns. Where, as in private companies there is no provision for compulsory audit, such provision should be made. The auditor will be required to give a certificate that he is satisfied with the balance-sheet as prepared in conformity with law. He will also certify to the amount of labour's share of surplus profits, as calculated according to the principles laid down by law. No auditor will ordinarily give a false certificate, as by doing so he will be liable not merely to criminal

action, but to being struck off the register. The auditors' profession has generally maintained a high standard of reputation. Even so, we agree that provision might be made for an appeal against the calculations of an auditor if any party establishes a *bona fide* case that some mistake has been made.

The appropriate Ministry of the Government of India will, of course, be generally responsible for seeing that any law on profit-sharing is duly enforced. No special machinery appears to be required. In the special cases where profit-sharing is to be on an industry-*cum*-locality basis, machinery will have to be created to determine the share payable to labour in all the undertakings. This, too, is comparatively a simple matter to calculate, but it cannot be done by an auditor of any individual concern, though the calculation will have to be based on the reports of the auditors of all concerns in the locality. We would suggest that this task be entrusted to a responsible officer of the Provincial Government, acting as the agent of the Central Government for this purpose."

APPENDIX XVI

SUMMARY OF RECOMMENDATIONS OF THE COMMITTEE ON FAIR WAGES¹

1. The 'living wage' represents a standard of living which provides not merely for a bare physical subsistence but for the maintenance of health and decency, a measure of frugal comfort and some insurance against the more important misfortunes (para 7)

2 The 'minimum wage' must provide not merely for the bare sustenance of life but for the preservation of the efficiency of the worker by providing for some measure of education, medical requirements and amenities (para. 10).

3 While, the lower limit of the 'fair wage' must obviously be the minimum wage, the upper limit is set by the capacity of industry to pay. Between these two limits the actual wages will depend on .

- (i) the productivity of labour ,
- (ii) the prevailing rates of wages ;
- (iii) the level of the national income and its distribution ; and
- (iv) the place of the industry in the economy of the country (para 15).

4. The wage-fixing machinery should relate a fair wage to a fair load of work and in case of doubt whether the existing work load is reasonable or not, proper time and motion studies should be instituted on a scientific basis (para 18).

5. While prevailing rates of wages fixed as a result of proper collective bargaining will bear a close approximation, for the present, to fair wages, the same cannot be said of prevailing wages resulting from unequal bargaining. Due allowance should, therefore, be made for any depression of wages caused by unequal bargaining (para 20)

6. For ascertaining the "capacity of industry to pay", the capacity of a particular industry in a specified region should be taken into account. This, in turn, can be ascertained by taking a fair cross-section of the industry in the region (para 23).

7. As regards the measure of the capacity to pay, the level of wages should be so fixed as to enable industry to maintain production

¹ This Report was approved in the meeting of the Labour Advisory Committee held in New Delhi in August, 1949.

with efficiency. The fair wages fixed should not be so out of line with wages in other industries as to cause movement of labour and consequent industrial unrest (para 24).

8. It is not possible to assign any definite weight to any of the factors that should be taken into account in calculating fair wages (para 26).

9. Where a benefit granted by an employer goes directly to reduce the expenses of a worker on items of expenditure which are to be taken into account for the calculation of the fair wage, it must be taken into account for calculating the fair wage payable (para 28).

10. The standard family should be taken as one requiring three consumption units and providing one wage-earner (para 31).

11. In the initial stages, in view of administrative and other difficulties, provision need be made for the fixation of fair wages of only categories upto the supervisory level (para 32).

12. The appropriate Government should be authorised to appoint Wages Boards for such industries as it considers necessary from time to time (para 33).

13. Fair wages should be determined on an industry-cum-region basis (para 34).

14. A number of factors should be taken into account in fixing wages differentials (para 36).

15. Where employment is on piece-rates or where the work done by men and women is demonstrably identical, no differentiation should be made between men and women workers regarding the wages payable. Where, however, women are employed on work exclusively done by them or where they are admittedly less efficient than men, the fair wages of women workers should be calculated on the basis of a smaller standard family than in the case of a man. The exact size of the family should be decided by the Central Co-ordinating Authority (para 40).

16. Basic wages should be fixed in respect of a cost of living index number of 160 to 175, treating the cost of living index number of 1939 as 100 (para 41).

17. For the lowest categories of wage earners the target should obviously be compensation to the extent of 100 per cent. of the increase in the cost of living. For categories above the lowest, a lower rate of compensation is justifiable but the amount of compensation should be based on salary scales or slabs (para 45).

18. There should be progressive improvement in the fair wage, but such improvement will depend on improvement in the economic conditions of the country and of the industry concerned (para 46).

19. In each Province a Provincial Wages Board should be set up. Regional Boards for each industry taken up for wage regulation should also be set up according to requirements (para 54)

20. A Central Appellate Board should be set up (para 55).

APPENDIX XVII

INDUSTRIAL HOUSING

Housing for Industrial Labour.

The provision for cheap, sanitary and adequate housing accommodation for industrial labour has been recognised as the most important problem which has a vital bearing on the welfare of the working class. Improved housing accommodation will undoubtedly improve the industrial efficiency, health and well-being of the industrial population in India. This problem has so long been neglected in India, neither the Government nor the local authorities, nor the employers have paid much attention to the problem of housing. Some of the employers, of course, have provided some sort of housing facilities to their workers ; but in most cases the workers are left to find accommodation for themselves. The result is the growth of congested, overcrowded and insanitary slums around the industrial centres in India, which lack sufficient ventilation and lighting and which are unfit for human habitation and the workers are obliged to live in these slums. The *chawls* of Bombay, the *ahatas* of Cawnpore, the *cheries* of Madras and the *bustees* of Calcutta will bear eloquent testimony to the deplorable conditions in which the workers are compelled to live and these slums "out-slum many slums of the world". The Indian Industrial Commission urged the importance of improving the health and housing conditions of the industrial workers.

Whitley Commission.

This deplorable nature of housing conditions of the workers, both in urban and industrial areas in India, was discussed by the Royal Commission on Labour in India. The Commission realised the importance of providing industrial housing in India and made several important recommendations regarding provision of better types of houses with adequate space, light, ventilation, drainage, latrines and sanitary arrangements. The Commission also specified different rôle for the Central and Provincial Governments, Municipalities and Local Boards, Co-operative Societies, Employers' and Workers' Organisations.

In spite of the above recommendations, there is no appreciable change in the matter of providing adequate sanitary houses to the industrial workers. Accepting the recommendations of the Commission, the Central Government amended the Land Acquisition Act in 1933 (XVI of 1933) enabling industrial concerns employing one hundred or more workers to acquire lands compulsorily for the purpose of erecting dwelling houses for their workers and for providing other amenities to them. In the United Kingdom and the Continent, the housing of lower income groups has been accepted as the responsibility of the State and local authorities. Compared with the other countries of the world, the position of India in this respect is the worst and this important problem has all along been in different stages of discussions without recourse to any constructive action, either legislative or administrative.

Provincial Labour Enquiry Committees.

Bombay Textile Labour Enquiry Committee, Cawnpore Labour Enquiry Committee and Bihar Labour Enquiry Committee also pointed out the deplorable housing conditions in most of the industrial centres. The Bihar Enquiry Committee recommended that all new factories before starting operations should obtain license from the Government, which should be granted only if minimum standards for housing of labour were provided and that the local authorities should be given power to demolish houses unfit for human habitation.

The Bombay Enquiry Committee come to the conclusion that as decent hygienic conditions had a great influence in increasing the general efficiency of the workers, the problem should not be left to private enterprises alone and recommended that the Government should formulate and execute necessary housing programmes leaving the responsibility for development to the local authorities. Accepting the recommendations, the Government of Bombay set up the Bombay Provincial Housing Board in 1947 with the Minister for Labour and Housing as Chairman for providing increased housing accommodation through Government or local bodies and encouraging private building enterprises and co-operative housing. The Bombay Housing Board Act was passed in 1948.

Rege Committee.

The Labour Investigation Committee after making investigation about the housing conditions of labour came to the conclusion that

the growth of industry in this country synchronized with the growth of slums and that the State should once for all make up its mind about the exact lines to policy in this respect and should take bold and immediate action to implement the same. The Committee suggested that the question of responsibility for providing housing facilities to the workers either by the State or municipalities and other organised bodies or by the employers should be decided first ; but the State should at least take the responsibility of providing finance for housing and the recurring expenses should be borne by the different parties. The Committee also suggested that the State should direct new establishments to organise industries in scattered areas and encourage transplantation of existing industries from congested areas to rural or urban areas, both subject to availability of transport facilities. The Committee recommended for setting up of statutory Central and Provincial Housing Boards on a tripartite basis to deal with the industrial housing policy and all questions concerning finance, ownership, standard of accommodation and actual construction.

Appointment of Housing Sub-Committee.

The problem of industrial housing and employers' responsibility in this connection was discussed in the Seventh Meeting of the Standing Labour Committee held on 28th August 1945 and it was unanimously decided to appoint a Industrial Housing Sub-Committee consisting of representatives of Central, Provincial and State Governments, employers and workers to consider (1) the question of building fund for financing the housing of workers and the manner of its collection, (2) the basis of payment of rent by workers, (3) the minimum standards required for workers' houses, (4) the manner of administering housing fund and (5) the grant of facilities by Central and Provincial Governments and local authorities for facilitating workers' housing schemes.

Report of Industrial Housing Sub-Committee.

The Sub-Committee submitted its Report on the 25th May, 1946 and made the following recommendations :—

(1) There should be a Building Fund for financing the housing of workers who are unable to pay an economic rent. The Fund could be raised by the Central or Provincial Government by making available long-term interest-free loans for housing built to approved

standards and those loans should be redeemed by the Building Authority by means of a sinking fund spread over a period of not less than 30 years.

(2) No agreed decision was arrived at regarding the basis on which the workers should pay rent. Some members were of opinion that fixed rent should be charged for the accommodation provided. The views of the workers' representatives were that rent should be charged on a sliding scale ranging from 2 per cent. of the wages in case of workers earning below Rs. 20/- per month to 10 per cent. of the wages in case of those earning more than Rs. 50/- per month.

(3) The minimum standards of accommodation for an industrial worker and his family should be a house comprising two rooms with floor area of 240 sq. ft., each 10 ft. in height and having a cubic capacity of 1,000 c.ft. verandah not less than 7 ft wide, a courtyard, a kitchen with chimney or flue and well-designed chulāh and with storage space for food and fuels, a bath room, a family lavatory and covered drains. The rooms should be well ventilated and preferably provided with electric lights and should be white-washed at least once a year. The Standards recommended envisage a lay-out on the lines of a garden city, with not more than 20 one-storied houses in one acre. Dormitories conforming to the above principles should be erected for unmarried workers with a sleeping space of 50 sq. ft., for each, in addition to common dining room, bath, lavatories.

(4) The Committee recommended that the housing scheme should be subsidized by the Central and Provincial Governments and employers. The Building Fund and the subsidy should be administered by a National Industrial Housing Board consisting of the representatives of the Central, Provincial and State Governments, employers, workers and other interested parties. Regional Industrial Housing Boards should also be set up with the representatives of Provincial Governments, States, employers, workmen and other interested parties, to co-ordinate regional schemes before they are submitted to the National Board.

(5) The Central and Provincial Governments should provide for necessary finance by raising long-term interest-free loans for approved schemes complying with the minimum standards. Employers should be asked to pay a sum of Rs. 2/- per month for every house allotted to them.

The Central and the Provincial Governments should co-ordinate their building programmes through the National Industrial Board for

ensuring cheap and efficient construction of houses and lowering of costs by mass production of standardised parts and bulk-buying of materials.

The Committee also recommended immediate setting up of a Technical Committee by the Central Government for building research and for reduction of the present high cost of construction and rationalisation of brick industry. The Committee further suggested for taking immediate steps to control the location of industry and also suggested some form of licensing of industry.

The Report of the Industrial Housing Sub-Committee was discussed in the Ninth Meeting of the Standing Labour Committee held at New Delhi on the 25th and 26th July, 1946 and the standards of housing were generally approved.

The Bhore Committee.¹

The Health Survey and Development Committee which was appointed by the Government of India in October, 1943 to make a broad survey of the present position in regard to health conditions and health organisation and recommendations for future development, in course of their survey of the health of industrial workers, commented on the extremely unsatisfactory conditions of the existing housing, both in rural and urban areas and in particular, appalling conditions of overcrowding in industrial centres. The Committee discussed the importance of housing and planning to health and suggested the essentiality of a long-term housing policy, comprehensive in scope and modern in outlook for satisfactory solution of the housing problem. The Committee was of opinion that the housing of the industrial population was primarily the responsibility of the Governments concerned and recommended that the Provincial Governments should establish a statutory body under the control of the Ministry of Housing and Town and Village Planning with power to execute province-wise housing construction programme, enforcing the minimum standards in design, construction and environmental amenities.

The minimum housing standards prescribed² are a single room 10 ft. by 12 ft. by 10 ft. and a verandah for a single worker and 2 rooms 10 ft. by 12 ft. by 10 ft., with separate kitchen, bath room, latrine and verandah for a family.

¹ Report of the Health Survey and Development Committee, Vol I, II, III, IV (De'hi, 1946).

² Ibid. Vol II, pp 129-130

The Committee suggested enactment of a model Town and Village Planning legislation by a Central Government incorporating all requirements of town and village planning according to modern conceptions and also establishment of All-India Housing Research Institute, on Anglo-German model, for co-ordinating research activities in building problem. The Committee finally suggested that the housing of lower income groups should be treated as a public service and that the Government should accept the responsibility for it.

Housing Scheme of the Central Government.

Under the Five-Year-Labour Programme inaugurated in 1946, the Central Government will provide for adequate housing for the workers and will set up machinery to co-ordinate the execution of housing schemes. The Central Government will co-ordinate and co-operate by rendering technical advice regarding designs and reasonable financial assistance. The housing scheme formulated in 1946 by the Central Government allowed a subsidy to the Provincial Government of $12\frac{1}{2}$ per cent. but up to the maximum of Rs. 200/- per house, provided the Provincial Government also contributed a like amount. The scheme was held in abeyance as the speedy execution of large scale construction schemes would force the prices still higher and was not desirable in view of the present highly inflationary cost.

On account of extremely unsatisfactory housing conditions in coal mines, the housing schemes have been given the first priority. The Coal Mines Labour Welfare Fund Act, 1947 (XXXII of 1947) provides for levy of excise duty on all coal and coke and constitution of Coal Mines Labour Housing Board and Coal Mines Labour Housing and Welfare Fund. The cess is being utilised for financing the comprehensive housing scheme with a subsidy by the Central Government. As a result of this housing policy, nice miners' colonies have sprang up in the coalfields of West Bengal and Bihar.

In the Resolution on the Industrial Policy announced in April 1948, the Central Government declared that special steps were taken to improve the industrial housing as quickly as possible and contemplated a scheme for construction of one million workers' houses in ten years and the constitution of a Housing Board for the purpose, the cost being shared in suitable proportions between the Government, Employer and Labour, the share of labour being recovered in the form of a reasonable monthly rent. The Central Government.

proposed to advance loans to serve as capital for the construction of houses and that the recurring charges should be shared by the workers (3 per cent in the shape of rent), employers ($1\frac{1}{2}$ per cent), Central Government (2 per cent) and Provincial Government (1 per cent). The proposals were discussed at the conference of Provincial and State Labour Ministers held in May 1948 and the conference recommended that the capital required for industrial housing should be raised by loan and the recurring charges should be met partly by levy of a capitation tax on the employers.

A new scheme of industrial housing was circulated by the Central Government to the Provincial Governments in April, 1949, suggesting constitution of Central and Regional Housing Boards for the execution of the scheme. Under the scheme, the capital required for industrial housing will be provided to the extent of two-thirds by the Central Government and one-third by the Provincial Government or the employer sponsored by the Provincial Government. The Central Government will not grant any subvention to the Provinces for this purposes. The capital provided by the Central Government will be given free of interest, but the Provincial Government will be required to build up a sinking fund to which contribution must be made from a date not later than two years after the loan has been paid by the centre and in equal instalments, so as to enable the amount to be repaid to the centre within 25 years from that date.

The employer's contribution will be in the form of rent for the quarter occupied by their workers at a rate not exceeding 3 per cent of the total capital cost. The employee's contribution will be the rent at the rate of 20 per cent of the worker's wages, subject to $2\frac{1}{2}$ per cent of the capital cost. This rate of rent will be in force for five years, at the end of which the whole position will be reviewed.

Housing Schemes of Provincial Governments.

(1) **Bombay**—The Government has drawn up a Five-year programme of housing beginning from April 1947 according to which about 15,000 tenements are proposed to be erected, besides the conversion of the existing structures. The Government has proposed to impose a levy on the employers as the housing of the workers is being considered as the responsibility of the employers. The broad features of the programme are the abolition of one room tenements, construction of dormitories and hostels for single persons and tenements to suit all sizes of families and fixing rents to suit the

pockets of persons in low income groups. A Housing Commissioner was appointed from November, 1946 with the organisation of the Housing Department. The Provincial Housing Board with the Minister for Labour and Housing as Chairman was constituted from January, 1947 and the Provincial Housing Advisory Committee was constituted on February, 1947.

A Post-war Reconstruction Scheme of housing for direct Government construction of houses for the industrial and low-income groups and assistance to co-operative housing societies etc. was formulated and works to the extent of Rs. 3 to 4 crores were partly undertaken and partly projected. The housing programme was being accelerated from time to time and it was thought necessary that it should be vigorously pursued for several years in order to overcome the present housing shortage. As the programme would involve considerable acquisition and development of land according to the principles of town planning and provision of amenities and services and as the Housing Board had to carry out activities like local authorities, the Government introduced the Bombay Housing Board Bill in the Provincial Legislature on the 8th October, 1948, to set up a statutory Board to provide for measures to be taken, to deal with and satisfy the need of housing accommodation. The Bombay Housing Board Act, 1948 (Bom. Act LXIX of 1948) received the assent of the Governor General on the 30th December 1948. The Act, for the first time in India, set up a statutory Housing Board to pursue measures, schemes and works necessary to increase the housing accommodation. The Board will consist of one wholetime Chairman and four other members appointed by the Government, for a period of 3 years. The Board shall have its Secretary, the Housing Commissioner appointed with the previous approval of the Government. The Act empowers the Government to appoint a Housing Advisory Committee and vests the Housing Board with wide powers in connection with the framing and execution of housing schemes. The Bombay Housing Board was set up by a Government Resolution dated the 11th January 1949¹

(2) **Bihar**—The Government appointed a special officer to report on the housing of industrial workers in the Province. His report is under the consideration of the Government.

¹ Labour Intelligence, June 1949, p. 9

(3) **West Bengal**—In pursuance of one of the decisions of the Tripartite Plantation Conference held in January, 1947, the Indian Tea Association has submitted a scheme for the housing of plantation labour in North East India for consideration of the Government. An imposition of welfare cess on export of tea for providing funds for the housing scheme has been recommended. The Government have decided to undertake a number of housing projects for the purpose of providing accommodation to the poorer and middle class families in Calcutta.

(4) **United Provinces**—The Government engaged an expert American house planner to survey the existing housing condition and to submit a report for the re-modelling of existing areas and new constructions. An officer of the Labour Department was deputed to make a special study of the subject in the United Kingdom and Bombay. These two Reports are now under consideration of the Government.

APPENDIX XVIII

COLLECTIVE AGREEMENT AND STANDING ORDERS AND RULES ¹

THIS AGREEMENT dated the 22nd November one thousand nine hundred and forty-eight BETWEEN BATA SHOE COMPANY LIMITED having its Head Office and Registered Office at No. 30 Theatre Road in Calcutta and its Factory at Batanagar hereinafter referred to as the "Company" AND THE BATA MAZDOOR UNION, Batanagar, hereinafter referred to as the "Union". THIS AGREEMENT WITNESSETH as follows.—

Article I—Purposes. The general purpose of this Agreement is to promote and improve industrial and economic relationship between the Company and its employees and to improve the machinery for the prompt and equitable disposition of grievances and to establish and maintain satisfactory working conditions and to set forth herein the basic agreement covering the rates of pay, hours of work and conditions of employment for all employees who are subject to provisions of this Agreement.

The governing factor throughout this Agreement shall be at all times the continuing safety of the corporate undertaking and the general welfare of those dependent thereon

Article II—Recognition.

- (a) For the purpose of this Agreement the Company recognises the Union as the sole and exclusive collective bargaining agency for its members.
- (b) No essential or confidential services staff will be withdrawn from work by the Union even if a strike is declared by the Union. If however in the event of a legal strike the Company actually starts carrying on the business of manufacture, in that event the Union will have the liberty to withdraw the essential and confidential staff. The following will be the essential

¹ There was suggestion for incorporation of a Sample Collective Agreement in the Appendix for guidance. The Collective Agreement of Bata Shoe Co. Ltd, Batanagar, 24-Parganas, is being reproduced by the kind permission of the Management of the Company.

and confidential service staff for the purposes of this clause :

- (i) Watch and Ward Department employees.
- (ii) Medical and Public Health Department employees.
- (iii) Secretaries.
- (iv) Telephone Operators.
- (v) Fire Brigade.
- (vi) Kitchen store.
- (vii) Transport staff essential for loading, unloading and carrying food-stuff or ration.
- (viii) Water and Electric Supply.

Article III—Relationship.

- (a) The Company agrees that it will not discriminate, interfere, coerce, or restrain any employee because of the membership in the Union, and it will not permit non-union employees to engage in anti-union activities during working hours or on Company's premises.
- (b) The Union agrees that neither it nor any of its officers or members will intimidate or coerce employees into membership in the Union or engage in any activity or demonstration or intimidation or interfere against the non-union employees and the Union further agrees that there will be no Union activity, solicitation for membership or collection of dues or meetings or demonstrations on Company time and premises, except that solicitation for membership and for collection of Union subscription will be permitted beyond the factory hours and outside the factory premises, except further that meetings other than open meetings can be held outside the factory premises.

Article IV—Reservation of Management's Rights. The Union acknowledges that it is the exclusive right and function of the Company to—

- (a) maintain order, discipline and efficiency ;
- (b) hire, discharge, retrench, classify, transfer, promote, demote or discipline employees provided that a claim that an employee has been improperly discharged or disciplined without reasonable cause and provided that

a claim that an employee has been dealt with by way of victimisation can be subjects of grievance and dealt with as hereinafter provided under grievances procedure,

- (c) generally manage the industrial enterprise in which the Company is engaged and without restricting the generality of the foregoing to determine from time to time the number and location of plants, the products to be manufactured, methods of manufacturing, schedules and estimate of production, kinds and allocation of machines and tools to be used, processes of manufacturing and assembling, the engineering and designing of its products and the control of materials and parts to be incorporated in the products produced and to change and alter and stop production of such articles as it may consider necessary from time to time

Article V—Lock-outs & Strikes. —The Company agrees that it will not cause or direct any lock-out of its employees as long as employees collectively or individually do not commit any breach of this Agreement and the Union also agrees that while retaining its right to go on a legal strike, it and its members individually or collectively will not cause, permit or take part in any strike, picketing, sit-down, stay-in, slow-down or other curtailment or restriction on production or interference with work in or about the Company's premises until the procedure provided herein for the settlement of grievances had been first fully complied with.

The Company also agrees that, subject as herein provided, before effecting any mass retrenchment (*viz.* 50 or over) such question will be subject of negotiation between the Company and the Union and if no settlement is arrived at, the same will be referred to arbitration if mutually agreed upon or to the Government for referring the matter to adjudication or arbitration of the Conciliation Officer and the decision so given by the Arbitrator or Adjudicator or Conciliation Officer will be binding upon both parties.

If however the Company effects any mass retrenchment as aforesaid ignoring the procedure above mentioned in that event the Union will be at liberty to take such action as it may consider fit and proper.

Article VI—Ex-Gratia Payment of Bonus. —The Company declares and makes an ex-gratia payment of Bonus one month after the end of each quarter at the rate of 10 per cent of

the total salary and/or wages paid to each employee during the quarter immediately preceding (such salary or wages are exclusive of dearness allowance or any other special allowances or attendance bonus or rewards granted to him during such period), such Bonus will be payable only to those employees who have completed six months' approved service ending on the last day of the quarter, and to those employees who have completed less than six months' approved service on the last day of the quarter the ex-gratia Bonus will be payable at the rate of 5 per cent of their total salary or wages as aforesaid. The ex-gratia Bonus will be available only to those employees who are in the employ of the Company on the date fixed for payment and who have given regular and approved service during the quarter to which the ex-gratia payment of Bonus is available.

Article VII—Conditions of Service.—Attached hereto and forming part of this Agreement is the Standing Orders & Rules incorporating schedule of hours, rules and regulations governing regular working time, conditions of service, schedule of basic wage rates, schedule of leave, grievance procedure, etc.

Article VIII—Period of Agreement.—This Agreement shall be in effect until December 31st, 1950 from the date hereof and subject as hereinafter provided shall continue from year to year after that date unless either party gives notice in writing of its intention to enter into negotiation for the purpose of amending the Agreement.

If notice of intention to amend is given by either party in writing pursuant to the provision of the preceding paragraph such negotiation shall take place not later than thirty days after the date written on the notice and if such negotiations do not result in agreement the matter will be referred to the Board of Adjudication under the Industrial Disputes Act, 1947 unless arbitration can be agreed upon between the parties.

In the event of a breach or continuing breach of the terms and conditions of this Agreement on the part of one of the parties hereto the other may refer the matter to the Labour Commissioner, or to the Conciliation Officer or to the Board of Adjudication under the Industrial Disputes Act, 1947 and both parties will be bound to abide by the decision so made.

This Agreement and all the terms and conditions herein shall be subject to any proper legislation in regard to any of the provisions duly enacted by statute or regulation by the Government and this Agreement shall be from time to time modified, extended, restricted

and amended to give effect thereto. It is further agreed that if any term or condition herein is altered or amended or added by mutual agreement the same will be duly given effect to and form part of this Agreement.

In witness whereof the parties have signed as hereunder
Enclo :

- (1) Standing Orders & Rules for Workmen.
- (2) Standing Orders & Rules for Supervisory & Clerical Staff
- (3) Essential Services Rules.

BATA SHOE CO., LTD., by
(Sd/- M. L. KHAITAN,
Chairman, Board of Directors
BATA MAZDOOR UNION, by
(Sd/- T. K. BOSE,
Secretary.

ANNEXURE

(1) STANDING ORDERS AND RULES FOR WORKMEN.

1. The Standing Orders and Rules appearing hereunder will govern the conditions of employment of workmen employed at the Factory of Bata Shoe Co., Ltd., at Batanagar, 24-Parganas

2. **Definitions.**—In these Orders, unless there is anything repugnant in the subject or context.

- (a) "Company" means the Bata Shoe Company Limited, Batanagar, having its Head Office and Registered Office at 30, Theatre Road, Calcutta
- (b) "Board" means the Board of Directors of the Company
- (c) "General Manager" means the General Manager of the Company and includes Assistant General Manager
- (d) "Personnel Officer" means the Personnel Officer of the Company and includes Staff Manager and Assistant Staff Manager.
- (e) "Workman" means all permanent workmen on piece rates, or on fixed salaries on hourly basis or otherwise, whose names appear in the salary statements of the Company and who are not in possession of individual agreements

with the Company in respect of their salary and/or terms and conditions of employment. Casual daily labourers are excluded from this definition, and special orders are framed for the Supervisory, Clerical and Essential Services Staff.

- (f) "Medical Certificate" means a certificate signed by a Medical Officer of the Company or by such outside Registered Medical Practitioner (Allopath) as may be acceptable to, and countersigned by the Company's Chief Medical Officer for the time being.
- (g) "Union" means a Union registered under the Indian Trade Unions Act, 1926 and recognised by the Company.

3. Recruitment.

- (a) Appointment to the Company's service is made solely by the Personnel Department. Candidates for employment of not less than 17 years of age will submit applications in writing, complete the Company's form of Employment Proposal, and submit to medical examination by the Medical Officers of the Company.
- (b) SPECIALISTS AND SKILLED TECHNICIANS: The appointment of Specialists and Skilled technicians is subject to a testing period of 14 days during which time the candidate is admitted to the factory by a special pass and will stand his trade test in a regular department and receive pay at the appropriate hourly-fixed rates or piece rates where in force with a minimum of Rs. 12.20 per week. If found satisfactory, appointment as a Probationer will follow as laid down in Rules 3 and 4, except that the Probationer will work in a regular department and at the appropriate scheduled rates.
- (c) The acceptance of employment by a candidate includes acceptance of and agreement to abide by the provisions of these Standing Orders and the Collective Agreement with the Union.

4. Appointment.

- (a) An appointment is considered valid only when a control card has been issued.

- (b) It is the responsibility of every workman to punch his control card correctly at the Gate Office on entering and, if so ordered, on leaving the factory.
- (c) Should a workman lose his control card, it will be replaced on application to his Payroller at the cost of one anna. A properly punched control card is considered evidence of attendance.

5. Classification.—Workmen are classified as follows:—

- A. Probationers.
- B. Permanent.

A. PROBATIONERS :

- (a) A newly engaged workman or a workman re-appointed after a break in service, is for the first six months of such service classified as a Probationer. His control card will bear a probationary number and be distinguished by a capital 'P' stamped on the face thereof.
- (b) A Probationer may be discharged without notice at the discretion of the Company.
- (c) A Probationer will be periodically subject to medical examination by the Company's Medical Officers, and if it is found that his health is deteriorating consistently, his services are liable to be terminated as unfit for industrial work in the Company.
- (d) A Probationer engaged for work in the Leather or Rubber Factory or the Tannery will receive training in the appropriate Training and Allocation Centre for the scheduled period prescribed for the operation for which he has been engaged. A schedule showing the rules and the various training periods is exhibited in each Training and Allocation Centre as well as on the notice board at the Gate Office. The Company reserves the right to meet the exigencies of production, to amend at its discretion this training schedule by the addition or elimination of operations.
- (e) On the successful completion of the training period to the satisfaction of the Superintendent in charge of the appropriate Training and Allocation Centre, the Probationer

will be allocated to a regular department from which time he will receive payment on piece rates calculated on the piece rate for the operation in which he has been trained

- (f) Should the Probationer at the end of his scheduled training period be detained in the Training and Allocation Centre by the Company, his pay will be revised to the higher trained scale for his operation as laid down in the rules of the Training and Allocation Centre.
- (g) Refusal of a workman to accept work in a regular department on completion of his scheduled training is tantamount to tendering his resignation
- (h) Should a Probationer during the period of his scheduled training be sent to work temporarily in a regular department, during such period as he works there, he will be paid at the scheduled basic rate for the operation on which he is engaged. At the Company's discretion, he may be returned to the Training and Allocation Centre to complete his scheduled training in which case he will, for that period, receive the untrained rate of pay.
- (i) During the scheduled training period, the Probationer will be paid at the weekly basic rate of Rs. 8.00 per week on hourly basis (except as provided in the foregoing clause) plus any allowances in force at the time.
- (j) In the calculation of any bonus which the Company may declare, or in qualifying for leave under the Company's rules or for any other privileges for which a qualifying period of work is laid down, a workman's service with the Company shall be deemed to include the probationary period.
- (k) Free medical attention in the factory will be provided by the Company
- (l) All workmen must join the Bata Workers Sickness Benefit Society (if in existence)

B. PERMANENT :

- (a) On completion of the six months' probationary period, a Probationer will become a permanent workman. In

place of his probationary control number, he will receive his substantive control number and will be issued with a regular control card

- (b) A permanent workman must join the Employees' Provident Fund ; membership of which is compulsory and the workman will be bound by the Rules and Regulations framed therefor.

6. Re-Allocation of Workmen Returning from Leave.

- (a) A workman returning from sanctioned leave on due date and time will proceed immediately to his old department and operation, or to the same operation in another department. If for any reason this is not possible, the workman will be employed in the Training and Allocation Centre pending a suitable vacancy, but during this period will receive pay at the basic rate for the operation upon which he was last employed. In the event of a change of production having taken place during his absence on leave, the returning workman will be offered piece-rated employment in another operation at a basic rate not less than that enjoyed by him prior to his departure on leave.
- (b) A workman who overstays sanctioned leave forfeits the privileges stated in Rule 6 (a) and is treated as absent ; but should he present himself for work within six working days of the expiry of his sanctioned leave, and the provisions of Rule 13 permit, he will be sent to the training and Allocation Centre until a suitable vacancy occurs in a regular department in his operation. During this period, he will receive the "trained" rate of pay applicable under the rules for his particular operation.
- (c) Should a workman on due return from sick leave be deemed by the Company's Medical Officer temporarily unfit to work in a regular department the Chief Medical Officer may recommend that he be employed for a period of a fortnight in the Training and Allocation Centre, where he shall be paid as provided in Rule 6 (a). At the end of the fortnight, the Medical Officer will re-examine the

workman and may certify him for a further fortnight in the Training and Allocation Centre. At the end of this extended period, however, if the workman is still found unfit, action will be taken under Rule 19 hereof.

7. Payment of Wages.—Wages will be paid in accordance with the provisions of the Payment of Wages Act (Act IV of 1936). Wages are paid weekly within eight days of completion of the work for which the wages are due. The working week for the calculation of piece-rate or hourly-fixed wages is reckoned from Monday to the following Friday or Saturday as the case may be and pay days are announced on the Notice Board at the Main Gate

8. Rates.—Rates are fixed by the Company and those applying to piece-rated workmen will be as per Schedule I and for hourly-fixed workmen as per Schedule II annexed hereto and wherever possible displayed in the departments concerned.

Minimum Wages.—Every permanent piece-rated or hourly-fixed Skilled or Semi-skilled workman after actively working for a full working week shall be paid not less than Rs. 11.00 per week. The minimum salary of all other permanent workmen and hourly-fixed labourers will be Rs. 10.00 per week.

9. Hours of Works and Shifts.

- (a) The plant will work in accordance with the provisions of the Indian Factories Act (Act XXV of 1934) and a schedule of working hours and shifts is displayed in appropriate languages at the Main Gate Office. These working hours and shifts are subject to change from time to time at the discretion of the Company. Workmen may be transferred from one shift to another.
- (b) **NIGHT SHIFT:** A workman who puts in a full working shift between the hours of 6-30 p.m. and 6 a.m. will be deemed to have worked on Night Shift and will receive 15 per cent. over and above the normal calculated rates.

Workmen of B Shift who will put in continually at least five hours of work extending up to and/or beyond 11 p.m. and unless otherwise debarred as in the usual night shifts, will receive 10 per cent. over and above the normal calculated rates as a special night allowance.

No workman will be ordinarily required to work on night shift for more than two weeks at a time after which he must serve two weeks on day shift before again being eligible to work in a night shift

- (c) Workmen will enter and leave the Factory by the Main Gate. Any workman may be searched by the Gate Checker as he enters or leaves the Factory

10. **Overtime.**

- (a) Overtime means time worked on the instructions of the Company in excess of the normal working week and will be paid for at double the normal basic rates for the number of hours so worked or for the actual production as the case may be.
- (b) Should a scheduled paid holiday occur in any week, a piece-rated or hourly-fixed workman working on such paid holiday will receive pay at the basic rate for the holiday in the normal course, but for the number of hours worked on such paid holiday will receive payment at double the basic rate or on the actual production as the case may be. Sunday work will be in accordance with the provisions of the Indian Factories Act (Act XXV of 1934) and those working on a Sunday will receive leave in lieu but will receive no extra wages on this account.

11. **Dismissal.**

A. MISCONDUCT :

For commission of any of the following acts of misconduct, the punishment is summary dismissal :—

- (a) Theft, fraud or dishonesty ;
- (b) Demanding, accepting or offering bribes or any illegal gratifications whatsoever ;
- (c) Smoking anywhere within the factory limits ;
- (d) Drunkenness, riotous or disorderly behaviour within the factory premises and/or while on duty ;
- (e) Insubordination or disobedience of any kind ;
- (f) Sleeping on duty. Claims of sickness will not be accepted as an excuse ;

- (g) Disclosing commercial or manufacturing secrets or calculations or designs ;
- (h) Any material mis-statements made on the Employment Proposal form ,
- (i) Anywhere within the Company's estate, committing or inciting others to commit breaches of the law or rules of the Company or the commission of any other act inimical to the interests of the Company or its employees ,
- (j) Alone or in combination with others, anywhere within the Company's estate causing or threatening to cause mental and/or physical pain or injury to other employees or approved residents ;
- (k) The collection of money or distribution of propaganda leaflets or the posting of notices within the factory limits without the sanction in writing of the General Manager or Personnel Officer having been first had and obtained ;
- (l) Committing any act likely to harm or endanger the Company's plant or property or likely to interfere with his own production and/or earning capacity or that of any other employee ;
- (m) Engaging in or inciting others to engage in illegal strikes or slow-down of work ;
- (n) Being found in possession of, or attempting to punch another workman's control card ;
- (o) Sabotage ;
- (p) Absence without leave from work for a period of seven consecutive days ;
- (q) Being found guilty of more than three minor offences as defined in these Orders ;
- (r) Any act or omission or attempted act or omission of a fraudulent nature in connection with any scheme of rationing ;
- (s) Conviction for any criminal offence under the Indian Penal Code involving moral turpitude

B. MINOR OFFENCES :

Minor offences are deemed to include negligence or neglect of work, inefficiency, temporary absenteeism, lateness or acts or

omissions for which a fine may be imposed under the Payment of Wages Act. Each such act or omission shall unless otherwise provided constitute an offence and the Company reserves the right to impose the following penalties:—

- (a) First offence—Warning.
- (b) Second Offence—Warning which may be accompanied by a fine
- (c) Third Offence—Warning which may be accompanied by a fine or suspension without pay for not more than three days.
- (d) Fourth Offence—Summary dismissal without notice or payment in lieu of notice.

Should, however, no minor offence be committed within six months of the last such offence, the next minor offence will be treated as a first offence.

C. PROCEDURE :

- (a) Any workman charged with an offence under these Orders, except in cases of lateness and absenteeism, shall receive a copy of such charge and in all cases will be given an opportunity of offering his explanation before any decision is arrived at. In awarding punishment, the Management will take into account the motive behind and the gravity of the offence, the workman's previous record and any extenuating or aggravating circumstances which may exist. A copy of the Order passed by the Personnel Officer shall be available to the workman concerned.
- (b) A workman who refuses to accept a charge sheet or to submit an explanation on being charged with an offence will be deemed to have admitted the charge against him. A workman who refuses to accept any communication addressed to him by the Company will be liable to disciplinary action for insubordination

12. Lateness.—A workman is deemed late if he is not, except for good and sufficient reason to the satisfaction of the Company, at his appointed place of work within five minutes of the sounding of the starting siren for the working period. This is deemed a minor offence.

13. Absenteeism.

- (a) Should lateness exceed one hour and unless he has a satisfactory explanation the workman will not be permitted to enter his department until the commencement of the next working period and will be considered an absentee.
- (b) Any workman, who, without good and sufficient reason to the satisfaction of the Company absents himself from his duties shall be deemed an absentee and subject to the following penalties :

First Occasion : $\frac{1}{2}$ to 2 days—Warning.

2 to 4 days—Warning and fine.

4 to 6 days—Warning and suspension for as many days as the employee is absent.

Second Occasion : $\frac{1}{2}$ to 2 days—Second warning and fine.

2 to 4 days—Second warning and suspension for as many days as the employee is absent.

4 to 6 days—Final warning and suspension for as many days as the employee is absent.

Third Occasion : $\frac{1}{2}$ to 2 days—Final warning and suspension for three days.

2 to 4 days—Final warning and suspension up to 10 days.

4 to 6 days—Dismissal.

Fourth Occasion : — — — Dismissal.

Workmen who, without proper authority, leave their departments during working hours will be absent under this rule.

14. Grievance Procedure.—If an employee has any complaint or question which he wishes to be taken up by the Company, the employee shall confer with his immediate foreman or incharge and then if he finds it necessary to make any complaint the matter shall be deemed a grievance and dealt with as hereinafter provided :

- (a) Grievances of the employee shall be reduced in writing in his own hand except where he is unable to do so. The grievance will have to be handed over by the employee to the person in the Personnel Department especially

appointed for receiving such complaints within three working days from the time of occurrence of the cause of grievance and the same will be entered in a Register and the entry duly initialled by the complainant and the Receiver giving also the date and time of receipt of the complaint. The time limit for submitting such grievance may be extended only when it is satisfactorily established that the employee was prevented from submitting such grievance for reasons beyond his control.

Grievances will be received in the Personnel Department as aforesaid half-an-hour during the lunch hour and half-an-hour after the working hours in the evening.

After receipt and registration of the grievance as aforesaid the Personnel Officer will discuss the matter if necessary with other supervisory and managerial staff and render the decision in writing not later than four working days from the date of the receipt of the complaint by him or within any longer period not exceeding two weeks which will be actually intimated to the employee.

- (b) If the decision is not satisfactory to the employee, he must refer within three days of the last decision the grievance in writing to the Joint Secretaries of the Works Committee for consideration. The Works Committee will consider such grievance and forward to the parties concerned its recommendation if a common consent is reached. In the event of a common consent not being reached by the Works Committee, the aggrieved party will be duly informed by the Joint Secretaries to that effect.
- (c) In the event of a common consent not being reached as aforesaid, the grievance will at the instance of either party be referred to the Government for adjudication by a Tribunal or to the sole arbitration of the Conciliation Officer appointed under the Industrial Disputes Act within ten days of the last decision unless a private arbitration is agreed upon between the parties. If however the Government do not refer the matter to a Tribunal or Conciliation Officer within a month from

the date of request from either party, the proceedings for settlement of grievance will be deemed to have been fully complied with under this Agreement. In the event of the grievance being submitted to arbitration or adjudication by any party, written notice will be given to the other party stating the subject matter of the reference.

- (d) The decision of the Conciliation Officer or Arbitrator or Arbitrators or Adjudicator will be final and binding upon both parties. It shall not be within the competency of the Tribunal or Conciliation Officer or Arbitrator or Arbitrators to alter or change the provisions of the Collective Agreement and/or these Orders or to substitute any new provisions in lieu thereof in order to give any decision. Each of the parties hereto will bear their own expenses of the proceedings before the Tribunal or Conciliation Officer or the Arbitrators.
- (e) No grievance shall be considered by the Personnel Officer or the General Manager or the Works Committee or be referred to arbitration or adjudication unless it arises out of the Collective Agreement and/or these Orders and has been properly carried through all the steps and within the time mentioned in this grievance procedure.

15. Stoppage and Shut-down.—The Company may, in the event of fire, catastrophe, breakdown of machinery, failure of power, civil commotion, epidemics or for any other cause of a like catastrophic nature or for other reasons beyond its control, stop any machine or machines, department or departments, wholly or partly, for any periods without notice and without compensation in lieu of notice and without wages except as hereinafter provided:

A. STOPPAGE FOR CATASTROPHIC REASONS :—

- (a) In the event of stoppage for catastrophic reasons under this rule during working hours, the workman affected shall be notified as soon as practicable regarding the resumption of work and will also be instructed as to whether they should remain in or leave the factory. This decision will normally be given within two hours of the commencement of the stoppage.

- (b) If workmen are notified that they may leave the factory and the stoppage does not exceed a full working week, the affected workmen shall for the period of the stoppage but to the maximum stated receive 75% of their basic rate for the period of such stoppage, provided they present themselves for work on due date and time when notified of recommencement.
- (c) Should the stoppage continue for more than a full working week, workmen affected will be given no further compensation beyond that mentioned in clause (b) hereof and will be considered temporarily unemployed. Reasonable notice, if practicable, of the resumption of normal work will be given to such workmen, who, if they present themselves for work on the due date and time will be reinstated without loss of privilege.
- (d) Should the stoppage appear likely to continue for a long and indefinite period, workmen displaced will, in addition to the compensation mentioned above, be given payment in lieu of notice as provided in Rule 19 and will be treated as discharged. They will be entitled to preference in employment as and when suitable vacancies occur
- (e) This rule does not apply in the cases of temporary cessation of production by reason of minor repairs to machinery or temporary want of materials or for reasons of a minor nature.

B. STOPPAGE FOR WHICH THE COMPANY IS RESPONSIBLE :—

- (a) In the event of stoppage of any machine or machines, department or departments, brought about by any deliberate act of the Company within its reasonable control, workmen affected will, for a maximum period of four working weeks, be paid compensation at the rate of 75% of their basic weekly rates for the first two working weeks and 50% of their basic weekly rates for the remaining two working weeks
- (b) Should the stoppage exceed the period of four working weeks, the affected workmen in addition to the compensation laid down will receive pay in lieu of notice as provided in Rule 19 and will be treated as discharged.

but will be entitled to preference in employment as and when vacancies occur or work is resumed.

C. TEMPORARY SHUT-DOWNS NOT THE FAULT OF THE WORKMEN :—

In the event of any piece-rated workman having completed a full working week and not achieved his estimated production for any reason whatsoever except his own negligence (of which the production Manager shall be the judge), such piece-rated workman if his production is less than 75% will receive 75% of his basic rate for that week or if he has completed three years' continuous service with the Company, and his production is less than 80%, he will receive 80% of his basic rate for that week. Should the 75% of the basic rate (or 80% as the case may be) yield a figure of less than Rs. 11 00 for the week, he will, nevertheless, receive Rs. 11'00.

16. Promotion.—Promotion is given at the discretion of the Company. Ability, skill, experience, efficiency, merit and length of service are the main considerations.

17. Transfer.—The question of transfer is entirely at the discretion of the Company and a workman is bound to accept the transfer when made.

18. Leave.—Workmen are entitled to leave as hereunder :—

A. PRIVILEGE LEAVE :

(a) After one year's continuous active service, 10 days' leave with basic pay annually. The period of such leave will be fixed by the Company in each year and is normally given in the month of October although the dates may not be exactly the same for every one.

(b) To meet the exigencies of production and special processes and for the overhauling of plant and equipment, certain departments or employees who will be notified at least two weeks in advance and who will be required to work during the period of general privilege leave, will receive their privilege leave with basic pay, either before or after or in the alternative if any such employee nor desiring to avail the privilege leave, he will receive pay at the basic rate for the leave in the normal course and for the period of work will receive payment at double the basic rate or on the actual production as the case may be.

B. FESTIVAL, LEAVE :

- (a) The following nine festival holidays are granted to workmen eight of which are with basic pay, and one, namely 1st Baisakh, without pay :—

1. Saraswati Pujah
2. Id-ul-Fitr
3. Id-uz-zuha
4. Holi (Doljatra)
5. Mohurram
6. Christmas Day
7. Mahatma Gandhi Birthday
8. Independence Day
9. 1st Baisakh

If any of the paid holidays falls on a non-working day, the next working day will not be declared as a holiday, but salary for that day on the basis of the basic rate will be given to all qualified workmen.

- (b) Only those employees who are present on the working day immediately before and the working day immediately following a Festival holiday scheduled as a paid holiday will qualify for pay on that holiday unless they are granted leave covering either or both the days in question.

C. SICK LEAVE :

After one year's continuous active service and upon approved medical certification—14 working days' sick leave with basic pay per year.

Effective from 1st January, 1948 workmen qualified by service for the benefit of 14 days' sick leave with pay annually who, in any calendar year, do not utilise the whole of such sick leave will, at the beginning of the following year, if still in the Company's employ, be eligible to receive payment at their basic rate of pay as on 31st December, for any unused balance of such sick leave.

This privilege will also be extended to such new workmen as, during any calendar year, become qualified to receive sick leave with pay. For the remainder

of that year such workmen will be deemed to be due 166 days' sick leave for each completed calendar month of service or major portion thereof, and, if still in the Company's service, will, at the beginning of the following year, be eligible to receive payment on the basis aforesaid for any unused balance of sick leave standing to their credit on 31st December

D. CASUAL LEAVE

- (a) After one year's continuous active service—5 days' casual leave annually on full basic pay.
- (b) Casual leave may not be availed of for more than three consecutive days at a time
- (c) Application for casual leave must be made in writing to the Personnel Officer through departmental heads at least one day in advance, except in emergent circumstances of which full proof must be produced.

E. ORDINARY LEAVE.

- (a) After 12 months' continuous service, a workman is qualified for ordinary leave without pay for a total of 20 days in any one year. The granting of leave is at the discretion of the Company and permission is subject to exigencies of production
- (b) Application for ordinary leave must be submitted in writing to departmental heads seven clear days before the leave is required. Leave is considered granted when the applicant is in possession of a leave card exchanged for his control card from the Personnel Department

19. Termination of Service.—The Company reserves the right to terminate the service of any workman :

- (a) In circumstances arising out of technical, manufacturing or commercial reasons which may necessitate the cessation of production or abolition of an operation or operations, or
- (b) where in the opinion of the Medical Officer a workman is deemed mentally or physically unfit, or for any other good and sufficient cause by giving 14 days' pay calculated at his basic rate in lieu of notice.

- (c) **PROTRACTED ILLNESS** No workman will be discharged for protracted illness unless his absence on this account exceed six months, provided that the workman has from time to time obtained leave from the Company.

20. Preference in Employment.—Workmen who have completed three years' service and who have been retrenched from the Company's service or discharged for reasons of ill health or dismissed for absenteeism will be given preference in re-employment when suitable vacancies occur. Such re-engagement is subject to physical fitness.

Applications from workmen dismissed for absenteeism (including lateness) will not be considered earlier than six months after the date of their last employment in the Company

Should a workman be discharged on three occasions for reasons other than retrenchment, he forfeits all claims to preference in employment

21. Provident Fund.—Membership of the Company's Provident Fund is compulsory for all permanent workmen. The approved rules are published separately

22. Safety Arrangements.—Safety arrangements are provided by the Company throughout the factory where necessary and workmen are instructed in their proper use. Failure to use the equipment provided or to disregard the Safety Rules constitutes an offence.

23. Gratuity.

- (a) if after three years of service any workman is declared by a Medical Board as permanently disabled for manual labour or if the Company retires any workman for such permanent disablement, such workman will be discharged and paid a gratuity equivalent to two weeks' basic wages for each year of service.
- (b) **METHOD OF CALCULATION OF GRATUITY.** Gratuity will be calculated on the basis of last three years' average salary of the workman concerned.
- (c) Should such disability or retirement occur after ten years continuous service, the basis of the payment of gratuity will receive the special consideration of the Company.
- (d) Any workman to whom a gratuity is paid under this rule is ineligible, in any circumstances, for re-employment in the Company.

24. **Attendance Bonus.**—A workman who, within one calendar year (January to December) completed 265 working days' (including Saturdays) active attendance, and whose wages do not exceed Rs. 250/- per month qualifies for an Attendance Bonus of :—

5% (Five per cent) of his earnings in that year (excluding dearness allowance, any bonus, special reward or other emolument, if any).

For workmen whose wages exceed Rs. 250/- per month and are less than Rs. 500/- per month, 2% of his earnings will be paid as Attendance Bonus on the same basis as above.

25. **Dearness Allowance.**—A workman is eligible to partake of the Company's scheme for payment of Dearness Allowance, introduced for the increased Cost of Living. At present Dearness Allowance is paid at the rate of Rs. 6/11/- per head per week (decided in August, 1948 on the Living Index of June at 353) and such Dearness Allowance will be subject to increment or decrement at five annas per week on every increase or decrease by 10 points in the Living Index and will be revised in the month of March, June, September and December each year on the Living Index of January, April, July and October respectively.

26. **Housing.**—Residential accommodation on the Company's estate is allocated under licence at the Company's discretion to its employees. By accepting and using accommodation on its estate, workmen agree strictly to observe the rules set out in Schedule III hereof.

SCHEDULE I

BASIC PIECE RATES.

GRADE		BASIC WEEKLY RATES	GRADE		BASIC WEEKLY RATES
A	.	35-00	VI	...	18-00
B	...	30-00	VII	...	17 00
C	..	27 00	VIII	..	16 00
I	.	25-00	IX	...	14 40
II	...	22-50	X	...	13 60
III	...	21-50	XI	...	13-00
IV	...	20-00	XII	..	12-60
V	...	18-50			

Note :—These basic weekly rates are based and payable on 100% achievement of the planned weekly production as per calculations prepared by the Costing Department.

SCHEDULE II**HOURLY FIXED RATES**

	RATES PER HOUR						BASIC WEEKLY		
	42½ hrs		43¾ hrs		45½ hrs		Inc per 100 pts	To	
	From	To	From	To	From	To			
Spec	0 529	0 824	0 514	0 800	0 495	0 770	22 50	0 830	35 00
Skld	0 400	0 506	0 389	0 491	0 374	0 473	17 00	0 500	21 50
S S	0 296	0 376	0 288	0 366	0 277	0 352	12 60	0 380	16 00

LABOURERS

	BASIC WEEKLY		
1st 6 months	0 188	0 183	0 176
1st year	0 235	0 229	0 220
2nd year	0 247	0 240	0 231
3rd year	0 259	0 251	0 242
4th year	0 271	0 263	0 253
5th year	0 282	0 274	0 264
6th year	0 294	0 286	0 275
7th year	0 306	0 297	0 285
8th year	0 315	0 306	0 294

SCHEDULE III.**RULES GOVERNING THE LICENCE FOR THE USE OF RESIDENTIAL ACCOMMODATION IN BATANAGAR**

The Company's estate of Batanagar is a private estate over which the Company exercises full control in every particular. Licence to use residential accommodation is given at the discretion of the Company and subject to the following conditions, (hereinafter employees resident in the estate will be referred as "Licensees")

- 1 The licence fee prescribed for use of residential accommodation varies with type, and these fees will be deducted from the licensee's weekly salary. If through oversight, such deduction is not made, the licensee must notify the Personnel Services Department at once.
- 2 The property of the Company in the use of licensees will at all reasonable times be open to inspection by the Company's duly authorised officers and licensees shall give such officers every assistance to this end.
- 3 **FAMILY QUARTERS**
 - (a) A licensee allotted a family quarter is permitted to have his direct dependents live with him. The term 'direct dependents' means parents, minor or unmarried or widowed sister, and minor brother.
 - (b) The licensee is also permitted to have temporary guests but should notify the Personnel Services Department within seven days of their date of arrival and the probable duration of their stay should not exceed fifteen days.

- (c) Ex-employees dismissed by the Company or discharged as *acut* under Rule 19 of the Standing Orders and Rules cannot remain in the estate as guests.
- (d) It is understood that the licensee is responsible for all acts whatsoever of his dependents and guests and should the Company demand that such dependent or dependents or guest or guests vacate these quarters either for reasons of misconduct or on account of overcrowding or other unhygienic conditions, the licensees will remove them from the quarters and the estate within 24 hours of the receipt of a written notice from the Company
- (e) A temporary guest, as described in Rule 3 (b) hereof, upon the expiry of the period of his sanctioned stay, is expected thereupon to leave the estate, and will not be permitted to become the temporary guest of another licensee with the idea of indefinitely prolonging his residence in the estate.

4 BACHELOR ACCOMMODATION .

- While the Company has no objection to workmen entertaining visitors, to prevent overcrowding and inconvenience to other residents, licensees allotted single accommodation will not be allowed to put up any visitor overnight without making arrangements in advance and securing the permission of the Superintendent of the Personnel Services Department in writing. Unauthorised persons found on the Company's estate are liable to be considered as trespassers and ejected and/or proceeded against under the law
- 5. The termination of the services of any licensee *ipso facto* cancels the licence to use residential quarters on the Company's estate and any discharged employee, his relatives or guests who do not in such circumstances vacate within 48 hours the quarters licensed to him under such conditions will become trespassers and subject to eviction as such and/or legal process.
 - 6. On allotment of any residential quarters for his use, the licensee will sign an inventory of all electric and other movable fittings and/or furniture therein contained, and on vacating the quarters will deliver such fittings and/or furniture to the Company in good and serviceable condition (fair wear and tear excepted) and may demand from the Personnel Services Department a clearance from his obligations in respect of the vacated quarter.
 - 7. The Company reserves to itself the right to alter the arrangement of residence on its estate and the licensee agrees to vacate the premises licensed to him or to transfer within 48 hours of receiving notice in writing by the Company to other premises as and when so directed.
 - 8. Licensees must observe cleanliness, and live in a hygienic manner. Proper and careful use of all sanitary and other equipment, fittings and/or furniture, provided in the quarters is essential and any damage caused by the licensee to the structure and/or fittings or equipment (fair wear and tear excepted) will be assessed and the damage recoverable from the employee.

- 9 It is expressly forbidden :
- (a) to use any residential accommodation without being in possession of the necessary licence to do so,
 - (b) for any licensee to remove from one quarter or from the seat allotted to him to another quarter or seat without the written permission of the Superintendent of the Personnel Services Department,
 - (c) for any licensee to allow the use of any quarter allotted to him to any other person for monetary consideration or otherwise, except as herein provided
- 10 Licences for the use of family quarters are granted on the understanding that the employee's family will reside permanently with them in such quarters
 - 11 The keeping of goats, cows, or other animals on the Company's estate is prohibited without the permission in writing of the Superintendent of the Personnel Services Department first being had and obtained
 - 12 No licensee either alone or in association with others shall commit obscene behaviour, disturb the peace, commit or threaten to commit any act of violence or other action inimical to the interest or to the annoyance of fellow residents.
 - 13 Licensees are permitted to use the Company's playgrounds and other places specially allotted for physical exercise, sports and games but meetings, processions (religious, political or otherwise) and/or demonstrations are permissible in the Company's estate only with the previous permission in writing of the Personnel Officer
 - 14 Quiet will be observed in the colony between the hours of 11 p.m. and 5 a.m.
 - 15 Violation of any of the foregoing rules will be deemed sufficient cause for the withdrawal of any licence to use residential accommodation on the Company's estate and constitute an offence under the Standing Orders and Rules.

(2) STANDING ORDERS AND RULES FOR SUPERVISORY & CLERICAL STAFF

1. The Standing Orders and Rules appearing hereunder will govern the conditions of employment of the Supervisory and Clerical Staff employed at the Factory of Bata Shoe Co., Ltd., at Batanagar, 24-Parganas.

2. **Definitions.**—In these Orders unless there is anything repugnant in the subject or context:

- (a) "Company" means the Bata Shoe Company Limited, Batanagar, having its Head Office and Registered Office at 30, Theatre Road, Calcutta.

- (b) "Board" means the Board of Directors of the Company.
- (c) "General Manager" means the General Manager of the Company and includes Assistant General Manager
- (d) "Personnel Officer" means the Personnel Officer of the Company and includes Staff Manager and Assistant Staff Manager
- (e) "Employee" means all permanent employees working in the Supervisory and Clerical Staff, Foremen and Controllers with fixed salary, whose names appear on the salary statements of the Company and whose terms and conditions of service are not otherwise laid down in individual agreements or otherwise, but does not include workmen on piece rates or hourly-fixed wages. Special Orders are framed for the Essential Services Staff
- (f) "Medical Certificate" means a certificate signed by a Medical Officer of the Company or by such outside Registered Medical Practitioner (Allopath) as may be acceptable to and countersigned by the Company's Chief Medical Officer for the time being
- (g) "Union" means a Union registered under the Indian Trade Unions Act, 1926, and recognised by the Company.

3. Recruitment.

- (a) Appointment to the Supervisory and Clerical Staff of the Company is made solely by the Personnel Department. Candidates for employment of not less than 17 years of age who must be in possession of the Matriculation Certificate of a recognised University or other equivalent educational qualification, will submit applications in writing, complete the Company's form of Employment Proposal and submit to medical examination by the Medical Officers of the Company.
- (b) The acceptance of employment by a candidate includes acceptance of and agreement to abide by the provisions of these Orders.

4 Appointment.

- (a) No appointment is valid until a control card is issued

- (b) It is the responsibility of every employee to punch his control card correctly at the Gate Office on entering and, if so ordered, on leaving the Factory.
- (c) Should an employee lose his control card it will be replaced on application to his payroller at the cost of one anna. A properly punched control card is considered evidence of attendance.

5. **Classification.**—Employees are classified as follows —

- A Probationers.
- B Permanent

A PROBATIONERS

- (a) A newly engaged employee or an employee re-appointed after a break of service is for the first six months of such service, classified as a probationer. In the case of newly recruited technical staff, however, the Company may, either at the time of appointment or at any intermediate time during the probationary period, notify the employee in writing that the probationary period is to a maximum of 9 months. His control card will bear a probationary number and be distinguished by a capital 'P' stamped on the face of it.
- (b) A probationer may be discharged without notice at the discretion of the Company
- (c) In the calculation of any bonus which the Company may declare or in qualifying for leave under the Company's rules or for any other privileges for which a qualifying period of work is laid down, an employee's service with the Company shall be deemed to include the probationary period.
- (d) Free medical attention in the factory will be provided by the Company.

B. PERMANENT :

- (a) On the completion of the six months' probationary period, the Probationer will become a permanent employee. In place of his probationary control number he will receive his substantive control number and he will be issued with a regular control card.

- (b) A permanent employee must join Bata Workers' Sicknes-Benefit Society (if in existence) and the Employees' Provident Fund, membership of both these is compulsory and he will be bound by the Rules and Regulations framed therefor

6. Payment of Salaries.—Salaries will be paid in accordance with the provisions of the Payment of Wages Act (Act IV of 1936) Salaries are paid weekly within eight days of the completion of the week for which they are due. The week, for the calculation of fixed salaries, is reckoned to be seven days commencing from Monday. Pay days are announced on the Notice Board at the Main Gate.

7. Salaries and Grading.

- (a) There are seven grades of employees in the Supervisory and Clerical Staff and in addition special grades for Foremen and Controllers in the Factory. Those grades are set out in Schedule I annexed hereto
- (b) **MINIMUM SALARY:** No permanent employee in the Supervisory and Clerical Staff shall draw less than a salary of Rs 70/- per month or its equivalent divided into weeks.

8. Increments and Promotions.

A. INCREMENTS :

- (a) Normally the salary of Fixed Salaried employees unless a Retard has been applied [see para (b)] will be advanced by one stage only of the grading within and to the limit of the next Efficiency Bar or the maximum figure of the Grade as the case may be, at intervals of 12 months determined by the date the employee was confirmed in his post, or the date of his last promotion or increment. Increments beyond an Efficiency Bar can only be given with the approval of the Personnel Officer and the General Manager.
- (b) In the event of persistent negligence, inefficiency or for habitual irregularity in attendance, the Company, unless the employee is otherwise dismissed, may notify him that his work is unsatisfactory and call upon him to show suitable improvement within a specific period,

which should not be less than two months. If, on review of this order, satisfactory improvement has not taken place, the employee shall be served with a notice that the increment of his salary has been retarded for a period which may extend to 12 months. This will be known and referred to as a 'Retard'

B. PROMOTION.

- (a) Promotion is given at the discretion of the Company as and when suitable vacancies in higher grades occur. Ability, skill, experience, efficiency, merit and length of service are the main considerations.
- (b) Should an employee be placed temporarily in charge of work in a more senior position, this will neither be deemed a promotion nor will it carry any higher salary.
- (c) Any piece-rated or hourly-fixed workman promoted to a clerical or supervisory position on fixed salary will, for the first year of his service in the new post, be considered on probation but if found unsuitable, will revert to his former status and work. During the probationary year he will be entitled to enjoy all other privileges of his new rank as they would be given to an employee in that grade with one year's service. For example, privilege leave of one week will be given during the first year.

9. Hours of Work.

- (a) WORKING HOURS: A schedule of working hours and shifts is displayed at the Main Gate. These working hours and shifts are subject to change from time to time at the discretion of the Company. Employees may be transferred from one shift to another.
- (b) NIGHT SHIFT: An employee who puts in a full working shift between the hours of 6-30 p.m. and 6-00 a.m. will be deemed to have worked on night shift and will receive an additional 15 per cent on his fixed salary.

Employees of the B shift who will put in continually at least five hours of work extending up to and/or beyond 11 p.m. and unless otherwise debaired

as in the usual night shift, will receive 10% over and above the normal fixed salary as a special night allowance

(c) No employee will be ordinarily required to work on night shift for more than two weeks at a time after which he must serve two weeks on day shift before again being eligible to work in a night shift

(d) Employees will enter and leave the Factory by the Main Gate. Any employee may be searched by the Gate Checker as he enters or leaves the factory

10. Transfer:—Transfer is entirely at the discretion of the Company and an employee is bound to accept the transfer when made

11. Overtime.—Overtime means time worked on the instructions of the Company in excess of the normal working week, or should a scheduled holiday occur in any week, for time worked in excess of the actual working hours of that week for which the employee will be paid at double the normal rate for the number of hours so worked

ILLUSTRATION: Although the employee is paid on the basis of seven days per week, for the purposes of calculation of overtime, his hourly salary will be calculated on the basis of a 43½ hours working week or whatever number of hours may be fixed for the working week from time to time

Sunday work will be in accordance with the provisions of the Factories Act (Act XXV of 1934) and those working on Sunday will receive leave in lieu but will receive no extra salary on that account.

12. Discharge or Termination of Service.

A. An employee shall be at liberty to terminate his employment by giving 30 days' notice in writing to the Company and the Company will be at liberty to terminate employment by giving 30 days' notice in writing or by paying the employee 30 days' salary in lieu of notice.

B. MISCONDUCT:

For commission of any of the following acts of misconduct the punishment is summary dismissal—

(a) Theft, fraud or dishonesty;

- (b) Demanding, accepting or offering bribes or any illegal gratifications whatsoever ;
- (c) Smoking anywhere within the factory limits ;
- (d) Drunkenness, riotous or disorderly behaviour within the factory premises and/or while on duty ,
- (e) Insubordination or disobedience of any kind ,
- (f) Sleeping on duty Claims of sickness will not be accepted as an excuse ;
- (g) Disclosing commercial or manufacturing secrets or calculations of designs ;
- (h) Any material mis-statements made on the Employment Proposal Form ;
- (i) Anywhere within the Company's estate, committing or inciting others to commit breaches of the law or rules of the Company or the commission of any other act inimical to the interests of the Company or its employees ;
- (j) Alone or in combination with others, anywhere within the Company's estate causing or threatening to cause mental and/or physical pain or injury to other employees or approved residents ,
- (k) The collection of money or distribution of propaganda leaflets or the posting of notices within the factory limits without the sanction in writing of the General Manager or Personnel Officer having been first had and obtained ;
- (l) Committing any act likely to harm or endanger the Company's plant or property or likely to interfere with his own production and/or earning capacity or that of any other employee ;
- (m) Engaging in or inciting others to engage in illegal strikes or slow-down of work ,
- (n) Being found in possession of, or attempting to punch another employee's control card ;
- (o) Sabotage ;
- (p) Absence without leave from work for a period of seven consecutive days ;
- (q) Being guilty of more than three minor offences as defined in these Orders ;

- (r) Any act or omission or attempted act or omission of a fraudulent nature in connection with any scheme of rationing ;
- (s) Conviction for any criminal offence under the Indian Penal Code involving moral turpitude ;
- (t) Refusal to accept a transfer ;
- (u) Wilful misrepresentation of the Company ; acting beyond authority and/or creating ill feeling amongst employees.

C MINOR OFFENCES .

Minor offences are deemed to include negligence or neglect of work, inefficiency, temporary absenteeism, lateness or acts or omissions for which a fine may be imposed under the Payment of Wages Act. Each such act or omission shall, unless otherwise provided, constitute an offence and the Company reserves the right to impose the following penalties .

- | | | |
|--------------------|----|--|
| (a) First Offence | .. | Warning |
| (b) Second Offence | | Warning which may be accompanied by a fine. |
| (c) Third Offence | | Warning which may be accompanied by a fine or suspension without pay for not more than three days. |
| (d) Fourth Offence | .. | Summary dismissal without notice and without salary in lieu of notice. |

D. PROCEDURE :

- (a) Any employee charged with an offence under these Rules, except in cases of lateness and/or absenteeism, shall receive a copy of such charge and in all cases will be given an opportunity of offering his explanation before any decision is arrived at. In awarding punishment, the Management will take into account the motive behind and the gravity of the offence, the employee's previous record and any other extenuating or aggravating circumstances which may exist. A copy of the order passed in his case by the Personnel Officer shall be available to the employee.

- (b) An employee who refuses to accept a charge sheet or to submit an explanation on being charged with an offence will be deemed to have admitted the charge against him. An employee who refuses to accept any communication addressed to him by the Company will be liable to disciplinary action for insubordination

E. LATENESS :

An employee is deemed late if he is not, except for good and sufficient reason to the satisfaction of the Company, at his appointed place of work within five minutes of the sounding of the starting siren for the working period. This is deemed a minor offence.

F. ABSENTEEISM :

- (a) Should lateness exceed one hour and unless he has a satisfactory explanation the employee will not be permitted to enter his department until the commencement of the next working period and will be considered an absentee.
- (b) Any employee who, without good and sufficient reason to the satisfaction of the Company absents himself from his duties shall be deemed an absentee and subject to the following penalties :

FIRST OCCASION .

$\frac{1}{2}$ to 2 days	..	Warning.
2 to 4 days	.	Warning and fine.
4 to 6 days	...	Warning and suspension for as many days as the employee is absent.

SECOND OCCASION .

$\frac{1}{2}$ to 2 days	..	Second warning and fine.
2 to 4 days		Second warning and suspension for as many days as the employee is absent
4 to 6 days		Final warning and suspension for as many days as the employee is absent

THIRD OCCASION

½ to 2 days	Final warning and suspension for three days.
2 to 4 days	Final warning and suspension up to 10 days
4 to 6 days	Dismissal.

FOURTH OCCASION

Dismissal

Employees who, without proper authority, leave their departments during working hours will be deemed absent under this Rule

13. Grievance Procedure.—If an employee has any complaint or question which he wishes to be taken up by the Company, the employee shall confer with his immediate foreman or incharge and then if he finds it necessary to make any complaint the matter shall be deemed a grievance and dealt with as hereinafter provided.—

(a) Grievances of the employee shall be reduced in writing in his own hand except where he is unable to do so. The grievance will have to be handed over by the employee to the person in the Personnel Department especially appointed for receiving such complaints within three working days from the time of occurrence of the cause of grievance and the same will be entered in a Register and the entry duly initialled by the complainant and the Receiver giving also the date and time of receipt of the complaint. The time limit for submitting such grievance may be extended only when it is satisfactorily established that the employee was prevented from submitting such grievance for reasons beyond his control.

Grievances will be received in the Personnel Department as aforesaid half-an-hour during the lunch hour and half-an-hour after the working hours in the evening.

After receipt and registration of the grievance as aforesaid the Personnel Officer who will discuss the matter if necessary with other supervisory and managerial staff and render the decision in writing not later than four working days from the date of the receipt of the complaint by him or within any longer period not exceeding two weeks which will be actually intimated to the employee.

- (b) If the decision is not satisfactory to the employee, he must refer within three days of the last decision the grievance in writing to the Joint Secretaries of the Works Committee for consideration. The Works Committee will consider such grievance and forward to the parties concerned its recommendation if a common consent is reached. In the event of a common consent not being reached by the Works Committee, the aggrieved party will be duly informed by the Joint Secretaries to that effect.
- (c) In the event of a common consent not being reached as aforesaid, the grievance will at the instance of either party be referred to the Government for adjudication by a Tribunal or to the sole arbitration of the Conciliation Officer appointed under the Industrial Disputes Act within ten days of the last decision unless a private arbitration is agreed upon between the parties. If however the Government do not refer the matter to a Tribunal or Conciliation Officer within a month from the date of request from either party, the proceedings for settlement of grievance will be deemed to have been fully complied with under this Agreement. In the event of a grievance being submitted to arbitration or adjudication by any party, written notice will be given to the other party stating the subject matter of the reference.
- (d) The decision of the Conciliation Officer or Arbitrator or Arbitrators or Adjudicator will be final and binding upon both parties. It shall not be within the competency of the Tribunal or Conciliation Officer or Arbitrator or Arbitrators to alter or change the provisions of the Collective Agreement and/or these Orders or to substitute any new provisions in lieu thereof in order to give any decision. Each of the parties hereto will bear their own expenses of the proceedings before the Tribunal or Conciliation Officer or the Arbitrators.
- (e) No grievance shall be considered by the Personnel Officer or the General Manager or the Works Committee or be referred to arbitration or adjudication unless it arises out of the Collective Agreement and/or these Orders and has been properly carried through all the steps

and within the time mentioned in this grievance procedure.

14. **Leave.**—Employees are entitled to leave as hereunder

A. PRIVILEGE LEAVE (Non-cumulative)

- (a) After one year's continuous active service 1 week with pay.
- (b) After three years' continuous active service 2 weeks with pay.
- (c) After seven years' continuous active service 3 weeks with pay

Such leave is exclusive of festival holidays declared by the Company from time to time and the compulsory period of privilege leave of 10 days (unless otherwise specified) which is normally fixed in October every year

- (d) An employee is not normally permitted to take his privilege leave immediately before or immediately following the annual period of compulsory privilege leave and where this is desired, application must be made in writing not less than two months before the commencement of the leave asked for. The granting of privilege leave in these circumstances will depend upon the exigencies of service.
- (e) The provisions of Rule 18 A(b) of the Workmen's Standing Orders for work during the annual period of compulsory privilege leave will equally apply to the employees of the Supervisory and Clerical staff.

B. SICK LEAVE: (Non-cumulative)

- (a) After one year's continuous active service and upon approved medical certification, 14 days' leave with pay annually.
- (b) Effective from 1st January 1948, employees qualified by service for the benefit of 14 days' sick leave with pay annually who, in any calendar year do not utilise the whole of such sick leave will, at the beginning of the following year, if still in the Company's employ, be eligible to receive payment *pro rata* to their basic salary as on 31st December, for any unused balance of any such sick leave.

This privilege will also be extended to such new employees as, during any calendar year, become qualified

to receive sick leave with pay. For the remainder of that year such employees will be deemed to be due 1'155 days' sick leave for each completed calendar month of service or major portion thereof, and, if still in the Company's service, will at the beginning of the following year be eligible to receive payment on the basis aforesaid for any unused balance of sick leave standing to their credit on 31st December.

C. FESTIVAL LEAVE :

(a) The following nine festival holidays are granted —

1. Saraswati Puja.
2. Id-ul-Fitr.
3. Id-uz-zuha.
4. Holi (Doljatra).
5. Mohurram.
6. Christmas Day.
7. Mahatma Gandhi Birthday
8. Independence Day.
9. 1st Baisakh.

D. CASUAL LEAVE : (Non-cumulative)

(a) After 12 months' continuous service 7 days' leave in a year with full pay.

(b) Casual leave may not be availed of for more than three consecutive days at a time.

(c) Application for casual leave must be made in writing to the Personnel Officer through departmental heads at least one day in advance except in emergent circumstances of which full proof must be produced.

15. Termination of Service.—A. The Company reserves the right to terminate the service of an employee :

(a) In circumstances arising out of technical, manufacturing or commercial reasons which may necessitate the cessation of production or abolition of any department or departments or portions thereof.

(b) Where in the opinion of the Medical Officer an employee is deemed mentally or physically unfit or for any other good and sufficient cause, by giving 30 days' notice in writing or by paying the employee 30 days' salary in lieu of notice.

B. **PROTRACTED ILLNESS** No employee will be discharged for protracted illness unless his absence on this account exceeds six months, provided that the employee has from time to time obtained leave from the Company

16. Preference in Employment.

- (a) Employees who have completed three years' service and who have been retrenched from the Company's service or discharged for reasons of ill-health or dismissed for absenteeism will be given preference in re-employment when suitable vacancies occur. Such re-engagement is subject to physical fitness. Applications from employees dismissed for absenteeism (including lateness) will not be considered earlier than six months after the date of last employment in the Company.
- (b) should an employee be discharged on three occasions for reasons other than retrenchment, he forfeits all claims to preference in employment

17. Provident Fund.—Membership of the Company's Provident Fund is compulsory for all permanent employees. The approved rules are published separately

18. Gratuity.

- (a) If any supervisor or clerk, after five years of service, is declared by a Medical Board as permanently disabled or if the Company retires any employee on account of permanent disablement, such employee will be discharged and paid a gratuity equivalent to one month's salary for each completed year of service

Gratuity will be calculated on the basis of last three years' average salary of the employee concerned

- (b) Any employee to whom a gratuity is paid under this rule is ineligible in any circumstances for re-employment in the Company

19. Attendance Bonus.—An employee in the salary brackets set out below, who, within one calendar year (January to December) completes 265 working days' (including Saturdays) active attendance qualifies for an Attendance Bonus based on his earnings in that year (exclusive of dearness allowance, any bonus, special reward or other emolument whatsoever):

- (a) If his monthly salary does not exceed Rs 250—5%
 (b) If his monthly salary exceeds Rs 250 but is less than Rs 500—2%.

20. **Dearness Allowance.**—An employee is eligible to partake of the Company's scheme for payment of Dearness Allowance, introduced for the increased Cost of Living. At present Dearness Allowance is paid at the rate of Rs. 6/11/- per head per week (decided in August, 1948 on the Living Index of June at 353) and such Dearness Allowance will be subject to increment or decrement at five annas per week on every increase or decrease by 10 points in the Living Index and will be revised in the months of March, June, September and December each year on the Living Index of January, April, July and October respectively.

21. **Housing.**—Residential accommodation on the Company's estate when available is allocated under licence at the Company's discretion to selected employees. By accepting and occupying the accommodation on its estate, employees agree strictly to observe the rules set out in Schedule II hereof.

SCHEDULE I

(a) SUPERVISORY AND CLERICAL STAFF GRADING

GRADE NO	BASIC WEEKLY FIXED SALARY					
S.A. ... Rs	100 00	7 00	156 00	E B	165 00—9 00	Rs. 205 00
S.I .. Rs.	50 00	5 00	130 00	E B	137 00—7 00	Rs. 200 00
S II .. Rs.	40-00	4 00	60 00	E B	65 00—5 00	Rs. 80 00
S III .. Rs	30 00	3-00	50 00	E B	54 00—4 00	Rs. 65 00
S.IV. ... Rs.	20 00	2-00	40 00	E.B	43 00—3 00	Rs. 55 00
S.V. ... Rs	16 25	0 75	17-00	1 00	18-00 2 00	26 00 E B —2-00 Rs. 40 00
S VI. .. Rs.	16 25	0 75	17 00	1-00	20 00 E B —2 00	26 00

(b) FOREMEN'S GRADING.

GRADE NO.	BASIC WEEKLY FIXED SALARY				
F/C	28 00	4-00	42 00
F/B	40 00	4-00	64-00
F/A	55 00	5 00	85 00

(c) CONTROLLERS' GRADING.

GRADE NO.	BASIC WEEKLY FIXED SALARY				
C/C	26 00	2 00	34 00
C/B	28 00	2 00	44 00
C/A	35 00	2 50	55 00

SCHEDULE II

RULES GOVERNING THE LICENCE FOR THE USE OF RESIDENTIAL
ACCOMMODATION IN BATANAGAR

(Same as in the case of Workmen)

(3) ESSENTIAL SERVICES RULES

1. Unless otherwise herein provided and specifically excluded, the Standing Orders & Rules applicable to workmen will govern the services of the Essential Staff. Those who are in possession of individual agreements and/or letters of appointment will be governed by the Standing Orders & Rules applicable to the Supervisory and Clerical staff instead.

2. The following departments and personnel are considered to comprise the Company's Essential Services

1. Fire Brigade
2. Watch & Ward Dept. (except messenger boys and gate-checkers).
3. Telephone Operators
4. Personnel Services Department (Canteen, Foodstuff Purchasing & Stores, Rationing, Dairy and Cultivation staff).
5. Medical & Public Health Dept. employees
6. Drivers—Cars and Station Wagon.
7. Electricity & Water Supply staff.

3. The provisions of the Standing Orders & Rules relating to rates, wages or salaries, working hours and shifts (including night shifts) and leaves other than sick leave and casual leave will not be applicable to the Essential staff.

4. Although the Festival holidays of the Factory do not apply to the members of the Essential staff, they will, nevertheless, except in the event of unauthorised absence, receive the Festival holiday pay when it is a paid holiday besides the normal pay. For essential staff in possession of individual agreements and/or letters of appointment, all the nine holidays are considered as paid holidays

5. Staff employed on the basis of seven days per week on the completion of one year's continuous active service in this cadre will be entitled to :

45 days' privilege leave with full pay per year and on the completion of 3 years' continuous active service 52 days' privilege leave with full pay per year.

Such leave not taken in one year will be allowed to be carried forward to the next succeeding year.

6. Fixed salaried staff employed on the basis of six days per week, unless otherwise provided for, will enjoy the following privilege leave

(a) After one year's continuous active service 22 days with pay.

(b) After three years' continuous active service . 29 days with pay.

(c) After seven years' continuous active service . 36 days with pay.

7. Fire Brigade.

(a) Service will be reckoned as six days per week

(b) A fireman's time will be divided into three periods :

(i) 8 hours per day on duty in the fire station ;

(ii) 16 hours rest-in duty in the barracks ;

(iii) Weekly leave period as provided by these rules.

(c) Firemen on duty may relax in station but each man by day and night will, in rotation, perform one hour's duty in which time he will wear his full uniform with belt and axe. During this hour of duty the fireman will patrol the front of the Fire Station, answer the telephone and remain generally alert.

(d) Rest-in Duty: During his period of rest-in duty the fireman is expected to remain in the barracks except for two intervals of one hour each, one during the day and the other during the night, in which he is permitted to go into the colony (if he desires to do so) to get his meal. Prior to leave, however, he must book out at the Fire Station and book in immediately on his return

- (e) All firemen will report to the Fire Station before commencing their leave period and immediately on their return from leave
- (f) All personnel on duty or on rest-in duty must attend the morning and afternoon parades. After completing 48 hours of duty (that is 6 days) each fireman is entitled to a period of 24 hours off duty when he is at liberty to do as he pleases.
- (g) Should there be an outbreak of fire all leave is automatically cancelled. No fireman is permitted to go off duty until the fire is controlled, after which the Superintendent will re-arrange the leave roster as may be necessary.
- (h) Privilege Leave. On completion of one year's service in this cadre members of the Fire Brigade (including drivers of the Fire Truck-Ambulance) will receive 42 days' privilege leave annually with full pay.

8. Watch and Ward Department.

- (a) Duty in this department will be reckoned as seven days per week.
- (b) The working time is divided into two periods of duty in the 24 hours separated by periods of 8 hours off duty.
- (c) In the event of an alarm on account of fire, civil commotion or other emergency, all durwans within call will rally at the Durwans' barracks with all possible speed

9. Telephone Operators.

- (a) Normally, duty shall be on the basis of six days to a total of 42 hours per week. The service must, however, be maintained for the scheduled period laid down from time to time by the Company, and should the exigencies of service necessitate an operator extending his duty beyond the limit of 42 hours in any one week, he will be paid overtime (basic salary plus 100 per cent) for the additional hours so worked.
- (b) Telephone Operators are responsible for the proper operation of the fire alarm, factory siren and the auto-call system during their period of duty.

10. Personnel Services Department (Canteen, Foodstuff Purchasing and Stores, Rationing, Dairy and Cultivation Staff) .

- (a) Duty will be reckoned as seven days per week
- (b) Duties will be allotted by the Supervisor responsible for each department, who will use his best endeavours to see that these are fairly apportioned. In the case of the Dairy, the Supervisor and his clerk will work six days per week.

11. Medical Department.—With the exception of the kitchen staff of the hospital, who will be governed by the same rules as the domestic staff of the Personnel Services Department, duty in this department will be considered to be six days per week on the understanding that in the event of any emergency such as epidemic, civil commotion, or other catastrophe demanding the services of the medical staff, all members will remain at the call of the Company's Medical Officer and will receive pay for the work done at their normal rate of pay.

12. Public Health Department.—With the exception of the Health Officer, the Liaison Doctor, and Sanitary Inspectors' work will be on the basis of seven days per week on the understanding that in the event of an emergency, outbreak of an epidemic or other similar catastrophe, the entire staff will be at the call of the Health Officer while the emergency lasts and will receive pay for the work done at their normal rate of pay.

13. Drivers—Cars and Station Wagon :

- (a) Services will be on the basis of six days per week, and hours according to the requirements of the Transport Department, on the understanding that should a driver be unduly detained by a member of the staff on his own private work, such member will suitably reward the driver and see that he is given reasonable time off for his food. Overtime will not be paid for such detention.
- (b) Drivers will be given 24 hours off duty in each week according to programme. Should it not be possible to give such leave, overtime (basic salary plus 100%) will be paid for the hours so worked.

14. Power-House Attendants, Pumpmen (Water Supply and Activated Sludge Plant):

- (a) Services will be on the basis of six days per week, working continuous shifts of 8 hours each. These shifts are

changed every week so that employees will regularly rotate in the various shifts.

- (b) Employees will be given 24 hours off duty every week according to programme.

BATA SHOE CO LTD

Sd./- S N. CHATTERJEE

Chief Secretary

Certified under Section 5(3) of the Industrial Employment (Standing Orders) Act this 26th day of May, 1949.

Sd/- S. K. HALDAR

*Certifying Officer & Labour
Commissioner, West Bengal.*

APPENDIX XIX

WELFARE TRUST FUNDS FOR INDUSTRIAL EMPLOYEES¹

A proposal to set up Welfare Trust Funds for Industrial employees was discussed at the Eighth Meeting of the Standing Labour Committee held on the 15th and 16th March, 1946. The general trend of opinion was in favour of setting up such Funds. It was felt that legislation for the purpose need only be considered if persuasion failed. The matter was accordingly brought to the notice of Provincial Governments who were requested to take such action as they might consider desirable to induce employers to organise Welfare Trust Funds. A copy of letter No LR. 51 (11), dated the 11th September, 1946, addressed to Provincial Governments in this connection is appended. Final replies have now been received from all the Provinces except Bombay and a summary of the views of the Provincial Governments which have replied is given in the enclosed statement.

2. It will be observed that the general trend of opinion is that persuasion has been of no avail with employers and that even in the few cases where funds are set apart for welfare, employers are reluctant to associate representatives of labour in the matter of their administration. The Governments of Assam, Central Provinces and Berar and East Punjab have positively recommended that legislation should be undertaken.

3. In this connection it may be mentioned that the Government of India have already sanctioned a scheme (copy enclosed) relating to the constitution of Welfare Funds for employees in Central Government undertakings.

¹ The question of setting up Welfare Trust Funds was discussed at the Eighth Meeting of the Standing Labour Committee held on the 15th and 16th March, 1946. As it was considered that legislation for the purpose should be undertaken only if persuasion failed, the Central Government wrote to the Provincial Governments enquiring about their views. Most of the Provincial Governments recommended that legislation should be undertaken and the matter was subsequently placed in the Agenda for the Eleventh Meeting of the Standing Committee held on 19th and 20th January 1949. The Central Government submitted a Memorandum on constitution of Labour Welfare Funds for Industrial Workers and the same was included in Item No. V of the Agenda. The matter was not finalised as there was late circulation of the Memorandum. The above is the copy of the original Memorandum submitted in the Meeting.

It is for consideration whether Government should now take steps to introduce legislation for setting up of Welfare Trust Funds and if so, on what lines.

Statement showing the views of the Provincial Governments in regard to the necessity for legislation for the constitution of Welfare Funds in private industrial undertakings.

ASSAM.—Employers generally want to avoid responsibility for instituting voluntary Welfare Funds and nothing less than legislation in that regard is likely to produce results.

BIHAR.—Most of the industrial undertakings have got welfare arrangements for education, health and recreation of the employees, but there is hardly any in which Welfare Fund Committees have been formed to include representatives of employees. Employers have again been urged to set up Welfare Trust Funds.

CENTRAL PROVINCES AND BERAR.—Persuasion is not likely to induce employers to adopt the scheme voluntarily and therefore, legislation appears to be the more suitable course.

EAST PUNJAB.—Factory owners are not prepared to create Welfare Funds voluntarily. The scheme may be enforced by legislation.

MADRAS.—The employees have generally not favoured the organisation of Welfare Funds. The Employers' Federation of Southern India, Madras, has taken the view that individual employers should not be required to undertake welfare measures for which there is no provision in law. One employer who has been earmarking funds for labour welfare considers that funds are not likely to be spent properly if entrusted to a Board dominated by inexperienced representatives of workers.

ORISSA.—Only large factories employing more than 500 workers should be required to create Welfare Funds. Since Orissa has only one or two big factories and they have already provided suitable amenities for labour, the question of legislation may be taken up after more big factories are developed.

UNITED PROVINCES.—Persuasion has failed and the suggestion for voluntary subscription to Welfare Trust Funds has not cut much ice.

WEST BENGAL.—The suggestion for the setting up of Welfare Funds on a voluntary basis has met with no response.

*Copy of letter No. LR 51 (11), dated the 11th September, 1946
from the Secretary to the Government of India, Ministry of Labour
to all Provincial Governments*

Subjects.—WELFARE TRUST FUNDS FOR INDUSTRIAL EMPLOYEES.

It is universally recognised that welfare measures serve to promote the productive efficiency of workers and can be regarded as a legitimate charge on the fruits of industry. Several progressive employers have been ear-marking funds for expenditure designed to promote the well-being of their workers. A proposal to set up Welfare Trust Funds was discussed at the Eighth Meeting of the Standing Labour Committee held on the 15th and 16th March, 1946. Though conclusions were not quite definite, there was a general trend of opinion in favour of setting up such Funds and also that legislation for the purpose need be considered only if persuasion failed.

2. The proposals now under consideration for comprehensive amendments to the Factories Act includes the question of enabling Provincial Governments to require employers to provide welfare measures. But even the most exhaustive legislative measures will not fully meet all requirements and there is considerable advantage if employers will set up Welfare Funds on a voluntary basis and this will also assist in a better understanding between them and the workers. I am, therefore, to bring the matter to the notice of the Provincial Governments with the request that such action, as they may consider desirable may be taken to induce employers to organise Welfare Trust Funds.

3. Where such funds are created, it would be an advantage if the administration is left to a board consisting of representatives of employers and workers, the latter being a majority and elected by the workers. The following might be appropriate items on which the funds could be expended :—

- (a) Education of the workers and their dependents.
- (b) Health of the workers and their dependents.
- (c) Recreation and entertainment for workers and their dependents.
- (d) Other general amenities.
- (e) Administration of the Trust Fund.

Copy of Office Memorandum No. LW 18 (1) 46, dated the 16th December 1946, from the Department of Labour to the Departments of Defence, Industries and Supplies, Communications, Works, Mines and Power, Health, Agriculture and Finance

Subject.—CONSTITUTION OF A LABOUR WELFARE FUND IN CENTRAL INDUSTRIAL UNDERTAKINGS

The undersigned is directed to address employing departments of the Central Government on the subject noted above.

2. Labour Welfare is receiving increased attention and a number of Central undertakings have already got Labour Welfare Officers. There are also a large number of Welfare Committees functioning successfully in several undertakings. With a view to stimulating the development of labour welfare work, the Central Government has decided that Labour Welfare Funds may with the concurrence of Finance Department be constituted in all industrial undertakings owned or controlled by it excepting establishments under the control of Railway Board and the major ports. On the principal Railways a system of Staff Benefit Fund already exists and the major ports have their own welfare organisations.

3. It is intended that the Welfare Fund should be utilised to provide recreation, sports, games, dramas, cinema shows, reading rooms and provision of books etc., to workmen employed in the undertaking, including the clerical and other staff attached to it. Purely administrative officers attached to the undertaking will fall outside the scope of the scheme. Amenities such as water supply, tiffin rooms, rest sheds, canteen facilities, etc., for the provision of which the employer is normally responsible, are not to be financed from this Fund.

4. The Fund, which will be supported partially by Government grants, will be constituted in the manner indicated below :—

During the first year, the Central Government will contribute at the rate of Rs. 1/- per worker without any stipulation as to contribution from workers.

During the second and third years the Government grant, which will be made unconditionally will be As. -/8/- per worker per annum plus an amount equivalent to the employee's contribution subject to a limit of 8 annas per worker.

During the fourth year, the Government grant will be equal to the employee's contribution or Re. 1/- per worker, whichever is less.

5 The Government grant will be paid at the beginning of each financial year and will be based on the average number of workmen employed in the undertaking in the year preceding the one in which the grant is made. In calculating the average number of workmen, all classes thereof whether permanent, temporary or casual, paid on a monthly basis will be taken into consideration.

6. The Government grant will be subject to the following conditions :—

- (a) There should be in existence a Welfare Fund Committee consisting of representatives of Government and workmen engaged in the undertaking, to administer the Fund.
- (b) The form of welfare activities should be left to the discretion of the Welfare Fund Committee
- (c) The Fund should be utilised to meet current expenditure but not capital expenditure.
- (d) An annual statement of income and expenditure, should be prepared for the scrutiny of the audit officer of the employing Department.

7. The employing departments concerned will be responsible for exercising the required financial control over the expenditure from the Fund through their officers.

8. Defence, Industries and Supplies etc., Departments are requested to adopt the scheme outlined above in respect of undertakings under their control. As it is now too late to arrange for budget provision for expenditure during 1947-48 it has been decided in consultation with the Finance Department that employing Departments should, whether necessary, meet the expenditure from within their sanctioned grants and obtain funds later if required, through a supplementary grant.

9. Labour Department may kindly be informed of the action taken by the Department etc., in due course.

APPENDIX XX

INDIAN TRIPARTITE LABOUR ORGANISATION

India was a signatory to the Treaty of Versailles at the end of the World War No I, which was responsible for the creation of the International Labour Organisation on the 28th June, 1919. India was an important member of the Organisation¹ since its creation in 1919 and as such if she accepted the I. L. O. tripartite principle for solving labour problems. The Royal Commission on labour in India in their Report published in 1931, recommended the statutory constitution of a permanent Industrial Council consisting of the representatives of the Government, employers and labour for holding regular Conference to co-ordinate labour conditions all over India.

Up to 1935, the Government of India was a unitary Government and there was uniformity in labour legislation which was only passed by the Central Government. But the Government of India Act, 1935 by including "Labour" in the concurrent legislative list, created a difficult situation and the initiative for enacting labour legislation passed on to the Provinces to a certain extent. In order to facilitate necessary consultation for co-ordination of labour policy and to foster the principle of uniformity in labour legislation, the Government of India convened, on the 22nd January, 1940 the First Conference of Labour Ministers, a Conference of representatives of Central and Provincial Governments and two industrially important Indian States, *viz.*, Baroda and Gwalior. The Hon'ble Sir A. Ramaswami Mudahar, Member in charge of Commerce and Labour, Government of India, in opening the Conference, remarked that though the Government had highest respect for the Wheatly Commission's recommendation about the Industrial Council, the Government considered the establishment of the Industrial Council

¹ Since 1922 India was considered as one of the eight leading industrial countries in the world and was allotted a permanent seat on the Governing Body of the International Labour Organisation. Sir Louis Kershaw was the first representative of India on the Governing Body (1922-26) and Sir Atul Chatterjee was the subsequent representative. Sri S. Lal, Secretary to the Government of India, Ministry of Labour, has been elected the Chairman of the Governing Body of the I. L. O. during the current year.

as premature and expressed the hope that the Conference would be a preliminary to similar Conferences held at periodic intervals to make it possible for the creation of the Industrial Council fore-shown by the Royal Commission on Labour in India.

The Second Conference of Provincial Labour Ministers was held on the 27th and 28th January, 1941 in which, apart from the Central Government representatives, representatives of nine Provinces (with the exception of Orissa and N. W. F. Province) and three Native States (Hyderabad, Baroda and Gwalior) were present. Early in 1942, the Third Conference of Labour Ministers, more fully representative of the Provinces and States than the previous ones, was held, when the Chairman Hon'ble Malik Sir Feroz Khan Noon, Member in charge of Labour, suggested the desirability of holding joint meetings of the Government, employers' and workers' representatives.

Accordingly in August 1942, the Government of India set up a permanent Tripartite Labour Organisation modelled on the constitution of International Labour Organisation and consisting of the representatives of the Central, Provincial and Indian State Government as well as of employers and workers, with the following three main aims and objects—(1) the promotion of uniformity in labour legislation as between the Central Government, the Provinces and the Indian States; (2) the determination of a procedure for the settlement of industrial disputes; and (3) the consultations on all matters of all-India importance concerning employers and employees—particularly matters relating to labour welfare, labour morale and peaceful solution of difficulties likely to endanger labour interests. The Fourth Labour Conference or in other words the First Tripartite Labour Conference was held on the 7th August 1942 under the Chairmanship of Hon'ble Dr. B. R. Ambedkar, Labour Member of the Central Government and attended by the representatives of the Central Government, Provinces, States (including the Chamber of Princes), Employers' Organisations like the All-India Organisation of Industrial Employees and Employers' Federation of India and Workers' Organisations like the All-India Trade Union Congress, the Indian Federation of Labour, the Ahmedabad Textile Labour Association, the Bengal National Chamber of Labour and also the representatives of the Municipal Workers of Bombay. This Conference was the first of its kind in India and for the first time introduced a Tripartite Machinery for regular and periodical discus-

sions between the representatives of the Central, Provincial and State Governments, employers and workers.

This Tripartite Machinery consists of a Plenary Conference and a Standing Labour Committee, over both of which the Member in charge of Labour in the Viceroy's Council presides. The Plenary Conference, which meets once a year, consists of 44 members—22 Government representatives (excluding the Chairman) and 11 Employers' and 11 Employees' representatives. The Standing Labour Committee, which may meet as often as it is convened by the Central Government, consists of 20 members—10 Government, 5 Employers' and 5 Employees' representatives. The functions of the Plenary Conference and the Standing Labour Committee are advisory in character. The Plenary Conference shall advise the Central Government on any matters referred to it for advice and the Standing Labour Committee shall consider questions referred to it by the Plenary Conference or the Central Government.

The Fifth Labour Conference (Second Tripartite Conference) held on the 6th and 7th September, 1943, adopted the Report of the Procedure Sub-Committee appointed by the Standing Labour Committee at its first meeting held on 30th November and 1st December, 1942 to the effect that the delegates representing the Central Government, Provinces, States, employers and workers might be accompanied by Advisers who might speak but not vote.

After some experience was gained of the working of the Conference, it was found that the constitution needed certain changes, as there was no clear-cut division of the functions between the Plenary Conference and the Standing Labour Committee and that there was also no clear-cut division between general questions and concrete problems, the discussion in the Conference as well as in the Committee being too general to be of much use. Certain suggestions of the Chairman, Dr. B. R. Ambedkar, were placed before the Sixth Labour Conference held on the 27th and 28th October, 1944. Firstly it was suggested that the subjects should be divided into two categories, one dealing with general subjects, such as terms and conditions of employment, labour legislation, questions relating to social security and the other dealing with all concrete questions relating to labour welfare and administration of labour laws. The first item should be assigned to the Plenary Conference and the second item should be considered by a new body, called the Labour Welfare Committee. Secondly the Standing Labour Committee

should cease to be a deliberative body and should act as the agent of the Plenary Conference.

The proposals of the Chairman in the Sixth Labour Conference about changes in the constitution and functions of the Tripartite Organisation were placed in the Sixth Meeting of the Standing Labour Committee held on the 17th March 1945 and the Chairman suggested for appointment of a Sub-Committee to examine the proposals made for changes in the constitution. The Sub-Committee submitted the Report suggesting that no change should be made in the constitution of the Tripartite Plenary Labour Conference which should deal with all labour subjects. Its composition should remain unaltered, but at the time of nomination of employers' and employees' representatives, not represented through the All-India Organisations, it was desirable that three representatives of the interests concerned not represented on these organisations should be selected. The Sub-Committee also suggested that the Standing Labour Committee should derive its power from the Plenary Labour Conference and should maintain the existing composition. The Sub-Committee did not favour the constitution of the Labour Welfare Committee for dealing with various labour subjects but preferred to set up ad hoc Committees on tripartite basis either for different industries or on a regional or all-India basis, according to the nature of each case. The Report of the Sub-Committee was placed in the Seventh Meeting of the Standing Labour Committee held on the 28th August, 1945. Workers' representatives in the Committee suggested the setting up of permanent Industrial Committees on the model of I.L.O. instead of ad hoc Committees. No final decision was made in this respect.

The question of reconstituting the Tripartite Machinery was again placed in the Eighth Session of the Indian Labour Conference held on the 21st and 22nd April, 1947. In the Memorandum submitted to the Conference, the Central Government decided to set up Industrial Committees for all principal industries and suggested abolition of the Standing Labour Committee which would be replaced by a Standing Committee consisting of 12 members, 6 from the Government group, 3 from the employers and 3 from the employees and which would act as an executive body of the Plenary Conference. The Standing Committee would meet before the Plenary Conference and would give full consideration to the agenda of the Conference and submit a report of the conclusions of each item for

discussion in the Conference. The Plenary Conference would deal with only general principles and there would be no necessity of the delegates bringing Advisers with them. Workers' representatives in the Conference welcomed the constitution of Industrial Committees but took strong exceptions to the withdrawal of Advisers and the proposed change in the Tripartite Machinery, which would tend to weaken it. The Chairman explained that the Government's intention was not to lessen the scope or usefulness of the Tripartite Machinery. No final decision was made and the constitution of the Tripartite Machinery as originally framed remained as it was.

Uptil the 1st of October 1949, there were nine Sessions of the Indian Labour Conference, eleven Meetings of the Standing Labour Committee, two meetings each of the Industrial Committees on Plantations and Coal Mining, one meeting each of the Industrial Committees on Cotton Textiles, Cement and Tanneries and Leather Goods Manufactories. The Central Government has proposed to constitute a Committee on Jute shortly. Items of the Agenda of these Conferences and Committees which have provided an arena for discussions between Government, employers' and employees' representatives of the proposal for labour legislation and matters connected with labour policy and administration are reproduced below to enable the readers to have a clear idea about the various matters discussed therein.

(A) INDIAN LABOUR CONFERENCES

I. First Conference of Labour Ministers held at New Delhi on 22nd and 23rd January, 1940.

- (1) Prevention and Settlement of Industrial Disputes.
- (2) Industrial Housing.
- (3) Holidays with Pay.
- (4) Collection of Statistics concerning Labour and Industry.
- (5) Extension of legislation to Labour employed in Commercial Establishments and Shops.
- (6) Hours of night shift work.
- (7) Sickness Insurance.
- (8) Amendment of the Payment of Wages Act in the light of its working during the past few years.
- (9) Amendment of Section 5 of the Factories Act.

- (10) Delegation of power to Provincial Governments regarding Trade Unions whose objects are not confined to one Province.

SUPPLEMENTARY AGENDA

- (1) Unemployment Assistance.
- (2) Madras Weekly Payment of Wages Bill, 1939.
- (3) Legislation to relieve indebtedness among industrial workers.
- (4) Recognition of Trade Unions

II. Second Conference of Labour Ministers held at New Delhi on the 27th and 28th January, 1941.

- (1) Amendment of the Trade Disputes Act, 1929.
- (2) Holidays with Pay.
- (3) Extension of Legislation to Labour employed in Commercial Establishments and Shops.
- (4) Amendment of Section 5 of the Factories Act.
- (5) Recognition of Trade Unions.
- (6) Extension of Maternity Benefits to women in Coal Mines.
- (7) Sickness Insurance.

III. Third Conference of Labour Ministers held at New Delhi on the 30th and 31st January, 1942.

- (1) Adjustment of wages to changes in cost of living.
- (2) Improving cost of living indices.
- (3) Sickness Insurance.
- (4) Holidays with Pay.
- (5) Night shift work.
- (6) Industrial fatigue resulting from the exemptions from the hours of work section of the Factories Act.
- (7) Provident Fund for industrial workers.
- (8) Amendment of the Workmen's Compensation Act.
- (9) Amendment of the Payment of Wages Act, 1936.

IV. Fourth Indian Labour Conference (First Tripartite Conference) held at New Delhi on the 7th August, 1942.

General discussions on labour welfare and labour morale in wartime.

- (1) Provision of adequate A. R. P. measures including the provision of slit trenches or other shelters and of adequate air-raid services.

- (2) Propaganda, including the provision of wireless sets for the dissemination of correct news.
- (3) Maintenance of cost price grain shops to ensure steady supply of food-grains at reasonable prices to workers
- (4) Provision of stocks of grain for emergencies and adequate arrangements for cooking.
- (5) Provision of canteens particularly in places where workers' families have left.
- (6) Facilities for remitting allowances to families of workers.
- (7) Short breaks during work to enable production to be sustained at a high level.
- (8) Payment of wages in the event of suspension of work due to air-raid conditions.

V. Fifth Indian Labour Conference (Second Tripartite Conference) held at New Delhi on the 6th and 7th September, 1943.

- (1) Involuntary unemployment due to shortage of coal, raw materials, etc.
- (2) Procedure for the Conference—Adoption of the Report.
- (3) Labour representation in Legislatures, Local Bodies and Statutory Committees.
- (4) Social Security: Minimum Wages.
- (5) Principles for fixing dearness allowance.
- (6) Provision for Standing Orders on the lines of provisions in Chapter V of Bombay Industrial Disputes Acts, in large industrial concerns.
- (7) Statement by Provincial Governments regarding setting up of Tripartite Organisations in Provinces.
- (8) Model Provident Fund Rules.

VI. Sixth Indian Labour Conference held at New Delhi on the 27th and 28th October, 1944.

- (1) Compulsory Insurance of Liability under the Workmen's Compensation Act, 1923.
- (2) Revision of the Trade Disputes Act, 1929.
- (3) Organisation of Employment in the transition from War to Peace.
- (4) Participation of State in Sickness Insurance Scheme for Industrial Labour in India.

- (5) Statutory Machinery for fixation of Minimum Wage.
- (6) Resolution proposed by the All-India Trade Union Congress on the procedure for amendment of Defence of India Rules affecting labour.
- (7) Special rations for workers doing heavy works.

VII. Seventh Indian Labour Conference held at New Delhi on the 27th and 28th November, 1945.

- (1) Unemployment—(i) involuntary unemployment resulting from controls and (ii) in transition period.
- (2) Reduction of working hours under the Factories Act.
- (3) Minimum Wage legislation.
- (4) Attitude of Employment Exchanges during strikes and lock-outs.
- (5) Industrial Canteens.
- (6) Proposed amendment of the Workmens' Compensation Act, 1923.
- (7) Proposed legislation for compelling employers to frame rules regulating service rights of employees in industrial concerns.
- (8) Proposed amendment of the Trade Unions Act, 1926.

VIII. Eighth Indian Labour Conference held at New Delhi on the 21st and 22nd April, 1947.

- (1) Report of action taken on the decisions of the previous meetings of the Labour Conference and Standing Labour Committee.
- (2) Brief report on Labour Policy and Administration during the previous year.
- (3) Report of the action taken on the Reports of the Labour Investigation Committee.
- (4) Replies of the Government of India to the I. L. O. Questionnaire and the Draft Conventions forwarded by the I. L. O. on the following subjects—(a) Organisation of Labour Inspection in Industrial and Commercial Undertakings; (b) Social Policy in Non-Metropolitan territories; and (c) Employment Service Organisation.
- (5) Industrial Employment (Standing Orders) Central Rules 1946.

- (6) Desirability of collecting information relating to wages and conditions of work in distributive trades and services (Proposal made by Sind Government).
- (7) Attitude of Employment Exchanges during strikes and lock-outs.
- (8) Bill for regulating employment of Dock Labour.
- (9) Note on the Constitution of the Indian Labour Conference and Standing Labour Committee.

IX. Ninth Indian Labour Conference held at New Delhi on the 19th, 20th and 21st April, 1948.

- (1) Report on Labour Policy and Administration.
- (2) A survey of the present position in regard to Works Committee.
- (3) Report on the activities of the Directorate-General of Resettlement and Employment.
- (4) Action taken on previous decisions of Indian Labour Conferences and Standing Labour Committees.
- (5) (A) Replies and Comments of the Government of India to the I. L. O. Questionnaires and Reports on (a) Wages —(i) fair wage clause in public contracts and (ii) protection of wages ; (b) Freedom of Association and Protection of the right to organise ; (c) Application of the Principles of the Right to Organise and Bargain Collectively, Collective Agreements, Conciliation and Arbitration and co-operation between public authorities and employers' and workers' organisation ; (d) Vocational guidance.
- (B) Revision of Conventions of the I. L. O. concerning persons employed in industry.
- (6) Implementation of the Industrial Statistics Act, 1942.
- (7) Compulsory Provident Fund for Industrial Workers.
- (8) Decasualisation of labour in main industries.
- (9) Implementation of the Resolution on Industrial Truce adopted at the Industries Conference held in December, 1947.

(B) STANDING LABOUR COMMITTEES**I. First Meeting of the Standing Labour Committee held at New Delhi on the 30th November and 1st December, 1942.**

- (1) War Time Legislation affecting labour.
- (2) Production—(a) Prevention of stoppages of work, (b) Technical Training Scheme, (c) Absenteeism, (d) Transfer of Labour, (e) Hours of work, (f) Industrial Health Research Board
- (3) Earnings of Labour—(a) Dearness Allowances, (b) Profit Bonuses.
- (4) Labour Welfare.
- (5) Industrial Statistics Act—Collection of information regarding wages, hours of work, etc.
- (6) Shortage of small coins and payment of wages.
- (7) Procedure.

II. Second Meeting of the Standing Labour Committee held at New Delhi on the 25th January, 1943.

- (1) Food supplied to Industrial Labour.
- (2) Joint Adjudication under Defence of India Rule 81A.
- (3) Deferred Bonuses.

III. Third Meeting of the Standing Labour Committee held at Bombay on the 7th and 8th May, 1943.

- (1) Report of the Procedure Sub-Committee.
- (2) Fair Wage Clause in Government contracts
- (3) A Plan for Labour Legislation and Labour Welfare during war-time—(a) Social Security, (b) Wages, (c) Welfare.
- (4)(a) Joint Production Committees in undertakings engaged on war work.
(b) Labour Officers in Industrial Undertakings.
- (5) Working of the Defence of India Rule 81A.
- (6) Employment Exchanges.
- (7) Industrial Statistics Act (XIX of 1942).

IV. Fourth Meeting of the Standing Labour Committee held at Lucknow on the 25th and 26th January, 1944.

- (1) Statutory Wage Control.
- (2) Scheme for the establishment of Employment Exchanges
- (3) Model Provident Fund Rules.
- (4) Canteens for Workers.
- (5) Consideration of the Report of the Committee on Dearness Allowance.
- (6) Absenteeism.
- (7) Maintenance of Records of Service of Industrial Workers.
- (8) Amendment of the Factories Act consequent upon the change in the Indian Standard Time.

V. Fifth Meeting of the Standing Labour Committee held at New Delhi on the 27th June, 1944.

- (1) The Indian Trade Unions (Amendment) Bill, 1943.
- (2) Draft Rules under the Industrial Statistics Act, 1942 for Collection of Statistics of Trade Disputes.
- (3) Monetary Compensation to Workers who have been refused leave.

VI. Sixth Meeting of the Standing Labour Committee held at New Delhi on the 17th March, 1945.

- (1) Report on Health Insurance for Industrial Workers.
- (3) Changes in the Constitution and Functions of the Tripartite Organisation.

VII. Seventh Meeting of the Standing Labour Committee held at New Delhi on the 28th August, 1945.

- (1) Report of the Sub-Committee on the Constitution of the Tripartite Organisation.
- (2) Industrial Housing and the responsibility of the employer in connection therewith.
- (3) Draft Rules under the Factories (Amendment) Act, 1945, relating to holidays with pay.
- (4) Amendment of the Workmen's Compensation Act (VIII of 1923)—Definition of "Workmen" (wage level).

VIII. Eighth Meeting of the Standing Labour Committee held at New Delhi on the 15th and 16th March, 1946.

- (1) Amendment of the Trade Disputes Act (Improvement on Government Machinery for Conciliation and Adjudication)
- (2) Review of employment in industry and extent to which unemployment is likely to occur.
- (3) Possibilities of Welfare Trust Funds for Industrial Employees.

IX. Ninth Meeting of the Standing Labour Committee held at New Delhi on the 24th and 26th July, 1946.

- (1) Legislation for Unregulated Factories.
- (2) Regulation of conditions of employment, etc. in business houses and commercial undertakings in urban areas.
- (3) Revision of the Indian Factories Act of 1934.
- (4) Holidays with Pay—Desirability of provision for paid holidays to workers in mines, unregulated factories, plantations, seamen, dock labour, local board employees, etc.
- (5) Revision of the Employment of Children Act of 1939.
- (6) Revision of the Mines Act of 1923.
- (7) Report of the Housing Sub-Committee.
- (8) Amendments of the International Labour Organisation Constitution.
- (9) Consideration of the progress of work in the Directorate General of Resettlement and Employment.
- (10) International Labour Office Questionnaire on Protection of Children and Young Workers.
- (11) International Labour Office Questionnaire on Minimum Standards of Social Policy in Dependent Territories.

X. Tenth Meeting of the Standing Labour Committee held at New Delhi on the 15th, 16th and 17th April, 1948.

- (1) (A) Replies and Comments of the Government of India to the I. L. O. Questionnaires and Reports on—(a) Wages

—(i) fair wages clause in public contracts, (ii) protection of wages, (b) Freedom of Association and Protection of the Right to Organise, (c) Application of the Principles of the Right to Organise and Bargain Collectively, Collective Agreements, Conciliation and Arbitration and co-operation between public authorities and employers' and workers' organisations, (d) Vocational guidance.

- (B) Revision of the I. L. O. Conventions concerning the night work of women and young persons
- (2) Compulsory Provident Fund for Industrial Workers.
- (3) Decasualisation of labour in main industries.
- (4) Implementation of the Resolution on Industrial Truce adopted at the Industries Conference held in December, 1947.

XI. Eleventh Meeting of the Standing Labour Committee held at New Delhi on the 19th and 20th January, 1949.

- (1) Implementation of the Industrial Statistics Act, 1942, for collection of Labour Statistics.
- (2) Amendments to the Indian Trade Unions Act, 1926, with a view to securing greater control over the working of the registered Trade Unions.
- (3) Disposal of the unexpanded accumulation under the War Injuries Compensation Insurance Scheme.
- (4) Scheme for Decasualisation of Dock Labour at Bombay.
- (5) Constitution of Welfare Trust Funds for Industrial Workers.

(C) INDUSTRIAL COMMITTEES

(1) PLANTATION.

(a) First Meeting of the Plantation Labour Conference held at New Delhi on the 8th and 9th January, 1948.

- (1) Wages and connected matters.
- (2) Sickness and Maternity Benefits.
- (3) Housing.
- (4) Medical Aid.

- (5) Education.
- (6) Welfare activities.
- (7) Plantation Act and Welfare Cess.
- (8) Constitution of Tripartite Conference.
- (9) Trade Union Organisation.

(b) Second Meeting of the Industrial Committee on Plantations held at New Delhi on the 31st March and 1st and 2nd April, 1948.

- (1) Wage Fixation.
- (2) Standards of Medical care.
- (3) Outlines of Plantation Legislation.
- (4) Appointment of a Standing Committee.

(2) COAL MINING.

(a) First Meeting of the Industrial Committee on Coal Mining held at Dhanbad on the 23rd and 24th January, 1948.

- (1) Amendments to the Mines Act.
- (2) A Brief Summary of the activities of the Coal Mines Labour Welfare Fund.
- (3) Training Schemes.
- (4) Resolutions adopted at the Second Session of the Coal Mines Committee of the International Labour Organisation and the action taken by the Government of India.
- (5) The Provident Fund Schemes for Coal Mines.
- (6) Stabilisation of Labour in Coal Mines, vide note of Ministry of Industry and Supply.
- (7) Standardisation of employment, attendance, output and pay roll registers in Coal Mines.
- (8) Attendance and Production Bonus.
- (9) Improvement of Statistics of labour and production in Coal Mines.
- (10) A note on abolition of contract system of coal raising at Railway Collieries.

(b) Second Meeting of the Industrial Committee on Coal Mining held at Dhanbad on the 13th and 14th September, 1948.

- (1) Action taken on the report of the First Session of the Committee.
- (2) Labour-Management relations in Coal Mines
- (3) Contract labour in coal mines.
- (4) Statutory provision for working of Collieries on Sundays preceding/succeeding the declared public holidays at normal rates.
- (5) Question of continuing the concessionary issue of cloth and foodgrains to colliery labour in the context of the present abnormal prices
- (6) Lead and lift rates payable to colliery labour in accordance with the recommendation of the Conciliation Board.
- (7) Supply of footwear at concessional rates to colliery workers.
- (8) Coal Mines Provident Fund Scheme (General Review).
- (9) Retrenchment of labour, closing down of mines and problem of surplus labour.

(3) COTTON TEXTILES.

First Meeting of the Industrial Committee on Cotton Textiles held at New Delhi on the 12th, 13th and 14th January, 1948.

- (1) Standardisation of wages and the rationalisation of dearness allowances structure
- (2) Measures for increasing production.
- (3) Training of Workers with a view to increasing their efficiency.
- (4) Provision for old-age institution of Provident Fund and Insurance Schemes.
- (5) Resolution passed at the First Session of the Textile Committee of the I.L.O. held at Brussels, November 1946, and the action taken by the Government of India.

(4) CEMENT.

First Meeting of the Industrial Committee on Cement held at Ranchi on the 10th and 11th September, 1948.

- (1) Constitution of the Committee.
- (2) Standardisation of wages and conditions of work in the Cement industry.

- (3) Promotion of harmonious industrial relations.
- (4) Measures for increasing production.

(5) TANNERIES AND LEATHER GOODS MANUFACTORIES

First Meeting of the Industrial Committee on Tanneries and Leather Goods Manufactories held at Lucknow on the 10th and 11th December, 1948.

- (1) Constitution of the Industrial Committee on Tanneries and Leather Goods Manufactories.
- (2) Wage Fixation in the industry.
- (3) Regulation of conditions of labour.
- (4) Means to prevent stoppages of work and consideration of means for increasing productions.

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